LOCAL GOVERNMENT

BY

M. D. CHALMERS, M.A.

BARRISTER-AT-LAW

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MACMILLAN AND CO.
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PREFACE.

Our political constitution rests for the most part on the unwritten customs of England, but our system of Local Government is almost entirely regulated by statute law, even to its minutest details. There are about 650 Acts, or fragments of Acts, of general application relating to local affairs. These public Acts are supplemented by some thousands of local and special Acts, which apply to particular towns or districts, and accumulate at the rate of about sixty a year. Our local legislation begins with the statute *De Officio Coronatoris*, passed in 1275, and ends for the present with the Divided Parishes Act of 1882. Between these terminal marks the various Acts are scattered up and down in wild confusion. The reader's journey through this dark valley of statutory dry bones must needs be a dull one. Writing law books is not a good literary training, and I have no power of enlivening the pilgrimage, or making the way seem picturesque. I have tried, however, to make the book as intelligible and accurate as the nature of the subject admits of. My difficulty is this:—Every principle that can be stated is liable to be obscured by a dense overgrowth of local exceptions. To attempt to go into local

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details and anomalies would only confuse the reader and render my task endless. I have therefore kept to propositions of general application. For instance, in describing the constitution of Municipal Boroughs I have not adverted to the special savings for Cambridge and the Cinque Ports or the long array of special Acts relating to Liverpool and Manchester. Once for all, then, whenever I state a proposition, I must ask the reader kindly to repeat before it the formula, "Except as otherwise provided by any local or special Act, and subject to any exceptions or savings in the general Acts."

I have to tender my best thanks to Mr. R. S. Wright, who most kindly gave me copies of the Memoranda he prepared in 1877 for Mr. Whitbread and Mr. Rathbone. I have found them invaluable. For the early history of our local institutions I have mainly used Professor Stubbs's *Constitutional History.*

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LOCAL GOVERNMENT.

CHAPTER I.

INTRODUCTORY.

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E object of the present volume is to describe the sting machinery of Local Government in England, and give a short account of those matters locally adminis-ed which do not form the subject of separate volumes the English Citizen Series. No English institution intelligible apart from its history. All our local ganisations have grown up spontaneously and irregu-ly. A brief historical sketch is therefore included the description of the various local institutions which the aggregate constitute our system of local govern-ent.

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place, and which do not directly affect the nation at large. The whole duty of an English citizen may be subdivided into — first, his duty to the state; and secondly, his duty to his neighbours. It is with his duty to his neighbours or the neighbourhood that local government is concerned. This duty again may be subdivided into two main heads—one positive, the other negative. The positive duty is the obligation to succour and provide for the poor and the helpless. The administration of the Poor Law, the education of the children of the poor, and the provision of lunatic asylums, hospitals, and other aids for the sick, fall under this category. The negative duty may be summed up in the precept of the common law forbidding any man to create a nuisance.[1] It is the business of the Local Government to see that the neighbourhood is supplied with pure water, that the food is unadulterated, that the air is uncontaminated, that streets are properly lighted, and that the roads are reasonably safe and sufficient. Fresh air, sound food, and good water, are the essential conditions of public health, and the knowledge of their necessity is happily spreading. As long as general principles only are regarded, there is not much room for controversy concerning the appropriate sphere of local government. The difficulty consists in the application of admitted principles when the question crops up in a concrete form. For instance, prisons formerly were managed by the local authorities. County prisons were under the control of the justices, and borough prisons under the control of the municipal councils. But by an act of 1877 the management of all

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prisons was transferred from the local authorities to the Central Government, as represented by the Home Secretary. In opposition to this act it was urged that prisons stand on precisely the same footing as workhouses and lunatic asylums, which are properly left to the management of local authorities. The controversy over the transfer was bitter and prolonged. Yet the principle in obedience to which the transfer was effected is admitted on all hands. It is essential that criminal justice should, as far as possible, be administered throughout the land with absolute uniformity. Gaols are part of the machinery of criminal justice, and as long as they were administered by independent local bodies the requisite uniformity in carrying out sentences of imprisonment could not be obtained.

Turning now from the sphere of local government to its form, it is clear that whatever be the constitution of a State, a vast amount of matters must be locally administered. These matters may be administered either by the officers and nominees of the Central Government or by the inhabitants of the particular districts concerned. In England local affairs for the most part are administered by the inhabitants of the particular local areas or their representatives. Local self-government is the prevailing system. Constitutional writers lay great stress on its political importance. They regard a vigorous system of local self-government as the chief corner-stone of political freedom. "England alone among the nations of the earth," says Sir Erskine May, "has maintained for centuries a constitutional polity; and her liberties may be ascribed above all things to her free local institutions. Since the days of

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their Saxon ancestors, her sons have learned at their own gates the duties and responsibilities of citizens. Associating for the common good, they have become exercised in public affairs."[1] "Local assemblies of citizens," says De Tocqueville, discussing the townships of New England, "constitute the strength of free nations. Town meetings are to liberty what primary schools are to science; they bring it within the people's reach; they teach men how to use and how to enjoy it. A nation may establish a system of free government, but without the spirit of municipal institutions (*institutions communales*) it cannot have the spirit of liberty. The transient passions and the interests of an hour, or the chance of circumstances, may have created the external forms of independence; but the despotic tendency which has been repelled will sooner or later inevitably reappear."[2] Mr. John Stuart Mill is equally emphatic. "I have dwelt," he remarks, "in strong language on the importance of that portion of the operation of free institutions, which may be called the public education of the citizens. Now of this education the local administrative institutions are the chief instrument."[3] "The principle of local self-government," say the Royal Sanitary Commission of 1869, "has been generally recognised as of the essence of our national vigour." It would be futile to multiply quotations on the constitutional advantages of local institutions. Local government is not endangered in England. Its sphere is likely to be increased rather than diminished. A legislative

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paralysis has lately seized on Parliament, and one of the remedies which seems imperatively demanded is the delegation of larger powers to local bodies. Future legislation must be centrifugal rather than centripetal. Moreover, although it may be admitted that local institutions play an important part in the life history of a free State, the exact nature of that part is not so clear. Do free and autonymous local institutions necessitate a constitutional central government, and create a spirit of freedom in the people at large, or does a constitutional government carried on by a free people necessarily generate a system of free local institutions? Which is cause and which is effect? or are both constitutional government and healthy local institutions merely the outward and visible signs of a spirit of freedom animating the nation, and in their turn reacting on the national character? It is the old difficulty of *post hoc vel propter hoc*. This much, however, is certain: a very complete system of local self-government is compatible with an entire absence of political freedom. Under Mahomedan rule the village communities of Northern India preserved their autonomy intact. India was conquered and reconquered. Despotism succeeded despotism, but the village community ever bowed its head before the storm, and pursued unheeded the even tenor of its way. As long as the village paid the taxes demanded of it, it was left to manage its own affairs. The political rights and duties of the Indian villager began and ended with paying in kind his share of the land tax, which was levied not on the individual, but on the village. Under British rule the land tax is paid in money instead of kind, and the amount of the tax is fixed instead of being

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arbitrarily varied, but the relations of an Indian village with the sovereign power are much the same as under native rule. The still surface of its life is not troubled with the advent of any political ideas. The villager regards the collection of the land tax as a disagreeable manifestation of *vis major*. How it is spent he neither knows nor cares. The idea that those who pay taxes ought to control or derive benefit from their expenditure never occurred to him even in his dreams. The affairs of the family and village community to which he belongs alone interest him. What passes beyond those limits concerns him not. Yet the headman of an Indian village is much more than the chairman of an English vestry; the punchayet or council of elders wields far greater powers than any vestry, and the village community governs itself much more completely than any English parish or New England township. The comparison is not an idle one. There is a real relationship between the Indian village community, the English parish, and the American township. Parish and township alike can trace their pedigree up to the mark system of our Teutonic forefathers. Northern India is peopled with an Aryan race, and the village community is very closely akin to the old Teutonic mark. All the essential features of the one are reproduced in the other. The village community, like the mark, is an economic as well as an administrative unit. Each alike is peopled by a group of families bound together by a more or less fictitious tie of kinship, who exercise joint ownership over its lands. The lands thus held are meted out among the co-proprietors on kindred principles, and the rights and duties of the members of the community

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It is not worth while to enlarge on the speculative aspects of local government. The relations of local institutions with political freedom may be left to others to determine. The object of this series is a practical one—namely, to give some information to an English

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In local affairs, as in our political constitution, the general type of government is representative. Our local institutions, like our political constitution, have developed spontaneously, and both alike bristle with anomalies. Englishmen, however, care but little for symmetry. The fact that an institution is anomalous, or a compromise in administering it illogical, does not disturb them so long as the thing works even tolerably. Take, for instance, the case of county government, which constitutes the most conspicuous exception to the rule of representative government in local matters. The governing body in the county consists of the justices, who are appointed by the Crown on the recommendation of the Lord-Lieutenant. Logically, whatever reasons there may be in favour of the representative system as regards the Central Government, and as regards other local authorities, apply equally to the county. Historically, too, the counties have every claim to an elective government. In Saxon times the system was thoroughly representative. The fact is that in the hands of the justices

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county government has been both pure and economical, though perhaps not always disinterested. Englishmen consequently have hitherto acquiesced in a system of class government which is wholly foreign to the generality of their institutions. Various schemes have been propounded from time to time for the re-establishment of representative county boards, but all hitherto have perished still-born. Perhaps the next venture may be more prosperous.

As regards the franchise, the right to vote at parliamentary elections and the right to vote for purposes of local government alike rest on the possession or occupation of land or houses. No amount of mere funded property, no payment of income tax, will give a vote. As regards taxation, however, there is this difference between national taxes and local rates: the Central Government taxes both real and personal property, while rates fall exclusively on land and houses. This different incidence of burden is important because of the question of Treasury subventions for local purposes, and of the further question whether personal property should not be made to contribute to the rates. A large part of local expenditure directly affects and benefits houses and land; but such matters as poor relief and elementary education have no connection with local property. It would therefore seem fair that the expenses of such matters should fall at any rate in part on actual income as well as on visible expenditure. As regards the method of voting at parliamentary elections, every voter is on an equality with respect to the number of votes that he can give, the number depending, except in the anomalous three-cornered constituencies, on the

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number of members to be elected. At local elections various systems of voting have been introduced. In some cases—as, for instance, in local board elections—the system of plural voting prevails; and the number of votes that an elector can give varies from one to six, according to the amount at which he is rated. Mr. John Stuart Mill approves this principle in local matters. There are, he says, the same strong reasons for plurality of votes as in the case of the National Parliament, and there is not so decisive an objection in the inferior as in the higher body to making the plural voting depend on a mere money qualification; for the honest and frugal dispensation of money forms so much larger a part of the business of the local than of the national body that there is more justice as well as policy in allowing a greater proportional influence to those who have a money interest at stake.[1]

Another point of contrast is the position of women. At a parliamentary election a woman cannot vote, neither can she serve as a member of Parliament. But a woman may exercise all local franchises if she be qualified in other respects, and she also may fill most local offices. It has been judicially decided that a woman may be a commissioner of sewers, governor of a workhouse, keeper of a prison, gaoler, parish constable, returning officer for a parliamentary election, guardian, and overseer of the poor. In the case of the overseer, the judges rather ungraciously intimated that a man ought to be appointed, but that if there was no man available a woman was the next best thing. Women have come forward lately in a good many instances to serve on school boards, but

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with this exception they have not shown much disposition to take part in local affairs. Neither local patriotism nor the opportunity thus afforded them of evidencing their business and political capacity has proved a sufficient motive to induce them to offer themselves as candidates for local office. Perhaps the fact that they are denied the parliamentary franchise may invest that forbidden fruit with special attractions.

Although both central and local government alike rest on a broad basis of popular representation, there is a striking difference in the class of men who are elected to administer the two systems. Speaking broadly, in the case of the Central Government, political power rests with the masses, but their mandates are carried out by the higher classes,—that is to say, by men of first-rate education and intelligence. As a general rule, the administration of local affairs has fallen into the hands of the small tradesman class, and the same class has also the main voting power. It is of course right and just that the lower middle class should be represented on local governing bodies; but the abstention of the more educated classes from taking their share in local government and the non-representation of the working classes on local executive bodies constitute great and growing evils. As population increases, and as science enlarges our knowledge of sanitary matters and conditions and the laws of hygiene, the problems to be attacked by local government become more complex, and require more trained intelligence to deal with them. A large proportion of the matters administered by local bodies—as, for instance, elementary education, the relief of the poor, and a good many sanitary improvements—directly and

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almost exclusively concerns the working classes. It seems, therefore, desirable that they should be to some extent directly represented in the administrative bodies. After all, nobody knows where the shoe pinches like the wearer.

Further analogies and divergences between our local and central systems will doubtless suggest themselves as the reader goes on, but it would be out of place here to pursue the subject further.

A very brief review of the French system, which has its merits as well as its demerits, may perhaps be useful for purposes of comparison. The strong and weak points of our own local institutions will come out more clearly when contrasted with the corresponding institutions of some other nation. France, for purposes of local government, is divided into eighty-six departments, which correspond roughly to our counties; the departments are subdivided into arrondissements, and the arrondissements, again, are subdivided into communes. The commune therefore constitutes the administrative unit, the larger areas being multiples of it. The total number of communes is 35,989,—that is to say, rather more than double the number of English parishes.[1] The government of the department is conducted by a Préfet and a Conseil-Général, the former having the executive power, while the latter exercises deliberative functions. The préfet is a paid officer appointed by the Central Government and directly under its control. He represents the Central Government in all local affairs, presides over the council, and is the head administrative officer of the district. The police are

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under him, and it is his duty to see that the law is maintained and enforced. In legal and judicial matters he is assisted by a small Conseil de Préfecture, the members of which are appointed by the Central Government. The Conseil-Général is an elective body. The councillors are elected for six years. One half the council retire every three years by rotation. Its meetings are public, and the minutes of its meetings must be furnished to the newspapers. By a curious but sensible provision of the law no newspaper may criticise the proceedings of the conseil-général without printing in the same number the minutes which relate to the subject criticised. The conseil-général fixes the sum to be paid by the department as land tax, house tax, or personal tax, and apportions out the sum total among the different arrondissements, and decides appeals from the arrondissements that are dissatisfied with their assessments. It manages all departmental property, controls the construction of departmental roads, bridges, and ferries, and is responsible for their repair. It superintends generally all public works of departmental interest. Lunatic asylums, the maintenance of poor children (enfants assistés), and the departmental poorhouses, are also within its jurisdiction. It controls the decision of the communes as regards fairs and markets, and the alteration of *octroi* duties. Finally, it audits the departmental accounts. All departmental payments, it seems, are made by officers of the Central Government. The Departmental Budget is published annually. The budget distinguishes between ordinary receipts and extraordinary receipts, such as special taxes or loans. It also distinguishes ordinary from extraordinary expenditure. The arrondissement is not, like the

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department, a body corporate, but merely a territorial division. It is presided over by a sous-prefét and elective council. The council examines the assessment made on the arrondissement by the conseil-général, and contests it if it thinks fit. It further fixes what proportion of the assessment is to be paid by each commune. The Commune is a corporate body. Its affairs are managed by a Maire and a Conseil-Municipal. The maire is appointed by the Central Government. The conseil-municipal is an elective body. The maire is an unpaid officer, and the préfet has the power of suspending him. He is the registrar of births, deaths, and marriages. He represents the Central Government in the commune, and he represents the commune with other bodies. He appoints most of the communal officials, and is empowered to make bye-laws on such subjects as the abatement of nuisances, and other matters relating to public health, the sale of provisions, the regulation of street traffic, the preservation of order in public places, and the control of theatres. The Communal Budget is presented by the maire, and voted by the conseil-municipal. The members of the conseil-municipal are elected for three years. The duties of that body consist in assisting and to some extent controlling the maire, and in the management of the communal property and affairs. Among the functions allotted to the commune are—the making and repair of communal roads, the enclosure and maintenance of burial-grounds, and the provision of moneys for the local police, elementary education, and the maintenance of foundling children. The communes vary immensely in size, but the only difference in constitution between a small and a large commune

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consists in the number of members on the conseil-municipal. This number varies from ten to thirty-six, according to the population. When the number of inhabitants is less than 500 the conseil consists of ten councillors, and when the number of inhabitants exceeds 60,000 the number of councillors is thirty-six. It is not likely that ten competent men can often be found in little country villages. This probably is one reason why recourse is had to officialism, and so much power is placed in the hands of the maire, who is the nominee of the Central Government. From a constitutional point of view, the remedy perhaps is worse than the disease. Whatever may be the faults of English local government, it cannot be accused of fostering officialism or of having created a too efficient bureaucracy.

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CHAPTER II.

GENERAL VIEW OF ENGLISH LOCAL GOVERNMENT.

Distribution and numbers of Local Authorities—Conflict of jurisdictions—Confusion of existing system—Local Finance—Tabular Statement of existing system.

It is hardly possible to give a correct and intelligible general view of the various local institutions which in the aggregate make up the system of local government in England. English local government, indeed, can only be called a system on the *lucus a non lucendo* principle. There is neither co-ordination nor subordination among the numerous authorities which regulate our local affairs. The Census Commissioners of 1871 remark, in mild surprise, that it is a peculiarity of the administration of this country that nearly every public authority divides the country differently, and with little or no reference to other divisions. Each authority appears to be unacquainted with the existence, or at least with the work, of the others. "There is no labyrinth so intricate," says Mr. Goschen, "as the chaos of our local laws." Local government in this country may be fitly described as consisting of a chaos of areas, a chaos of authorities, and a chaos of rates. Mr. Rathbone stated in the House of Commons that in the place where he lived there were no less than

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thirty-five different local authorities. The local government areas into which England and Wales are divided may be enumerated as follows:—There are 52 counties—40 in England and 12 in Wales, 239 municipal boroughs, 70 Improvement Act districts, 1006 urban sanitary districts, 41 port sanitary authorities, and 577 rural sanitary districts; 2051 school-board districts, 424 highway districts, 853 burial-board districts, 649 unions, 194 lighting and watching districts, 14,946 poor-law parishes, 5064 highway parishes not included in urban or highway districts, and about 13,000 ecclesiastical parishes.[1] The total number of local authorities who tax the English ratepayer is 27,069, and they tax him by means of 18 different kinds of rates.[2]

The boundaries of a union never intersect the boundaries of a poor law parish, for the unions are aggregates of parishes—but with this exception; all the various areas intersect and overlap. For instance, 85 parishes and 181 unions are situated partly in one county, partly in another. All these areas are governed by different authorities, elected or selected by different means and bodies. The metropolis is governed by a congeries of authorities and enactments peculiar to itself. In this catalogue of districts, registration districts and the old division of the country into hundreds (or wapentakes, as they are called in the north) have been disregarded. The only practical importance of the hundred now consists in its liability to make compensation for damage done by rioters within its limits. The procedure

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for enforcing this liability against the inhabitants is provided by an Act of 1827,[1] but proceedings under it are hardly ever resorted to. For the administration of justice the country is divided into circuits, counties, county-court districts, petty sessional divisions, and police divisions. These divisions, with the exception of the counties, have hardly any connection with the divisions of the country for purposes of local government. There are also about twenty towns, called "counties of cities" and "counties of towns," which, for the administration of justice and some other purposes, are deemed to be separate counties. To add to the reigning confusion the same local name may be applied to different areas; for instance, the parliamentary borough, the municipal borough, and the union of the same name, are often not conterminous. Chester furnishes an example of this anomaly.

A single county may be taken as a specimen to illustrate the distribution of the various local government areas. Bedfordshire, the first of the counties in alphabetical order, will do as well as any other. Bedfordshire, with an area of 97,000 acres, and a population of 41,000 persons, has one court of quarter sessions, and is divided into 9 hundreds, 7 petty sessional divisions, and 8 lieutenancy subdivisions. The police divisions, with two exceptions, coincide with the petty sessional divisions. The county contains 3 municipal boroughs; 3 urban sanitary districts; 6 rural sanitary districts, some of which stretch into adjoining counties; 6 highway districts,

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two of which stretch into adjoining counties; 6 burial-board districts; 4 lighting and watching districts; 45 school districts, four of which run into adjoining counties; 6 unions, some of which overstep the county borders; 134 entire poor-law parishes, and portions of three more. All these divisions overlap and interlace. Each of them is governed by its own petty authority, which for the most part wholly ignores the existence of any other division or authority. Passing now from the local distribution of the various areas and authorities, let us next examine the personal application of our system of local government, and see how this clashing of jurisdictions affects the individual citizen. Mr. R. S. Wright illustrates the result as follows:—"The inhabitant of a borough lives in a fourfold area for purposes of local government,—namely, in the borough, in a parish, in a union, and in a county; none of these are conterminous, unless by accident, with any of the others; and different parts of the borough are or may be in different parishes, and in different unions, and in different counties. He is or may be governed by a sixfold authority—the municipal council, the vestry, the school board, the burial board, the guardians, and the county quarter sessions; all these are different bodies, and inhabitants of different parts of the same borough are or may be under different vestries, burial boards, guardians, and quarter sessions. He is or may be subject to a borough rate, a general district rate, a poor rate, a burial rate, and a county rate.

"The inhabitant of a local-board district also lives in four kinds of districts—the local-board district, the parish, the union, and the county. He is or may be under six governments—the local board, the vestry,

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the union, the burial board, the quarter sessions, and the school board. Moreover, any of these districts or authorities, except the local board and its district, may be different for inhabitants of different parts of the same local-board district. There is a case of a farm of 200 acres in Gloucestershire which some few years ago was in twelve parishes, and subject to about fifty rates.

"The inhabitant of a rural parish lives in a parish, a union, in a county, and probably in a highway district. He is or may be governed by a vestry, a school board, a burial board, a highway board, the guardians, and the justices. There are a multitude of minor matters in respect of which the districts, authorities, and rates are or may be additionally multiplied and complicated in all the above cases."[1]

The state of things above described results from the English habit of legislating by piecemeal. Special authorities and districts have been created for special purposes, as occasion seemed to require. As society has outgrown existing institutions, the defects and shortcomings have been remedied by patchwork. The result is that the country is covered with a perfect jungle of jurisdictions, each presided over by its own authority. This overgrowth of authorities is firmly rooted to the soil by vested interests. Each petty board or authority must have its own staff and officers kept up at the expense of the ratepayers, however unnecessary this may be for the purpose of doing the work. Confusion and extravagance are the characteristic features of the whole system. The consequent waste of time, power, and money is

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immense. Reform appears to be required in two directions—first, the simplification of areas; and second, the consolidation of authorities. Some area should be chosen as the Local Government unit, and the larger areas should be multiples of that unit. Further, a separate authority should not be created or kept up for every function that has to be discharged. Within certain limits the same authority can very well deal with different subject-matters through separate departments. The Central Government of the country is carried on by a small Cabinet working through different departments, and the extension of this principle to local affairs has frequently been recommended. Take for instance the case of a municipal borough. As it is, the town council is, in most cases, the sanitary authority for the place. Why should it not also discharge the functions of the guardians, of the burial board, and perhaps also of the school board? The different departments could be superintended by different committees of the Council. In rural districts the Board of Guardians is the sanitary authority. Why should not the guardians be invested with the powers of the highway board, the burial board, and the lighting committee, where there is one? The present system involves a very needless multiplication of officers and elections. The elections of the different local authorities are held at different times. The qualifications of electors and candidates differ in each case, as do also the mode of election, the returning-officer and his staff, and the period for which office is held. The table inserted at the end of this chapter, which is taken from a recent parliamentary paper, summarizes the conditions under which local elections are

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at present conducted.[1] A glance at this table brings home to the mind more forcibly than adjectives what a waste of power must necessarily result from the present multiplicity of boards and elections. The system is extravagant in time, in men, and in money. A further and more serious evil consequent on the dispersion of functions is this: the number of capable men able and willing to take part in local government is limited. The numerous boards therefore have to be filled up with very indifferent material. A locality which might well furnish a single board of competent men is quite unequal to provide four or five such boards. Besides, the very limited sphere of usefulness which is open to a man who serves in any one of the existing petty boards effectually deters many good men from coming forward. The opponents of reform urge that there is a healthy vitality about English local institutions which more than compensates for all their eccentricities and shortcomings. To this its advocates reply that judicious reform would increase rather than impair that vigour. There was once a golden age of local government in England, when it was both simple and strong. That golden age, say sanguine men, may yet return in some shape. In Saxon times the pressure of the Central Government was but slightly felt. The duties of a freeman to the State were all comprehended in the *trinoda necessitas*.[2] As regards administrative government, the counties were almost independent. The counties were subdivided into hundreds, and

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these again were subdivided into townships. Each division had its appropriate assembly or court, which made bye-laws, and administered local affairs and justice within its competence. Police was provided for by the system of frankpledge or mutual guarantee. Every freeholder—and freeholder then was practically synonymous with freeman—was entitled to take part in the township assembly. Every township was represented in the court of the hundred and the county. No distinction was drawn between legislative, judicial, and administrative functions. Ἀρχεῖν καὶ δικάζειν was then the right and duty of every freeman. The machinery of local government in Saxon times would of course be as unfitted to the present day as Saxon clothes or Saxon arms; but a return in rural districts to something like the old threefold division into county, hundred, and township seems highly desirable.[1] Nothing probably would be gained by trying to include the larger towns in the tripartite rural system. They should have their own municipal system. The conditions of town and country in respect

[1] The fatal mistake was made in 1834, when unions were created without any regard to the historic division of the country into counties. Nearly a third of the total number of unions cut county boundaries. *Ce n'est que le premier pas qui coûte.* Since 1834 both population and wealth have advanced by leaps and bounds. To provide for the growing requirements of the nation new local authorities have been created wholesale. Each special need has been met by calling into existence a new special authority to deal with it. Following the evil precedent of the unions, these new authorities have been created without any regard to previously existing divisions or authorities. The burial board knows not the highway board, and neither of them takes cognisance of the vestry, the guardians, or the country. It will be no easy task to make these heterogeneous elements coalesce, and there are of course limits beyond which it would not be desirable to attempt to do so.

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The subject of local taxation and burdens is dealt with in another volume of this series;[1] but for the sake of completeness a few words must be said here on the general aspect of those questions.

Very few people probably realise the extent of the sums annually disbursed by the various local authorities in England, or the alarming rate at which local expenditure and indebtedness is increasing. The ratepayer who grasps the situation regards the feats of elective

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local bodies in spending money and piling up debts with feelings akin to those with which Frankenstein beheld the pranks of the monster of his own creation. But he takes no action in the matter. No one works harder than an Englishman to make money, yet no one submits more passively to having his money taken from him. The scandalous failure of our bankruptcy laws is mainly due to the apathy of creditors in enforcing their rights. This curious national characteristic comes out strongly as regards local affairs. The ordinary ratepayer looks on a rise in his rates in the same way that he looks on an increase in the rainfall. Both are matters to be grumbled at; but in neither case does he inquire into causes, and he considers the one as irremediable as the other. In spite of the prevalent apathy on the subject, the statistics of local finance are well worth a little attention.

In 1870 the sum total of the outlay for the year for local purposes was £29,000,000.[1] In 1880, although prisons had in the meantime been transferred to the Central Government, the expenditure for the year had risen to £50,000,000. In order to meet this outlay £31,000,000 were raised by local taxation, the Treasury contributed rather more than £2,000,000, tolls and dues brought in £6,000,000, and the rest was defrayed out of loans. The expenditure is shown in the Local Government Board Returns under two heads,—namely, non-remunerative expenditure and remunerative expenditure. Under the first head appear the sums ex-

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pended on the relief of the poor and the maintenance of the police force throughout the country. Under the heading of remunerative expenditure, as it is euphemistically called, are included the expenses incurred by highway authorities, sanitary authorities, school boards, drainage boards, and burial boards; also the sums expended on vaccination, and on the registration of births, deaths, and marriages. An examination of the details of the returns shows that nearly £2,000,000 were expended on highways, and nearly £4,000,000 on elementary education. Vaccination cost £86,000; but the main expenditure was incurred by urban sanitary authorities, who spent no less than £16,761,000; while rural sanitary authorities, on the other hand, spent rather less than half a million. Turning now to the details of non-remunerative expenditure, we find that our local tribute to pauperism and crime comes to about £15,500,000. The police administration of the country costs about £7,000,000. The total sum raised by the poor rate is £14,000,000, but by various statutes, expenditure for many purposes wholly unconnected with the relief of the poor has been charged on the poor rate. Still the total spent on poor relief proper is startling. Our navy and fleet, equipped with all the appliances of modern warfare, cost us about £10,000,000 annually. Our noble army of paupers costs us nearly £9,000,000. The mean strength of our force of adult able-bodied paupers is about 105,000—that is to say, it is about the same as that of our army[1] and navy combined. It seems a pity that we cannot have an annual review of our able-bodied paupers. It would be a more imposing spectacle than any military pageant

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In 1881 the total of our local debt had reached the enormous sum of £144,000,000. In 1875 it was £92,000,000. An examination of the returns shows that our local indebtedness has been steadily increasing at the rate of about £8,000,000 a year.

Turning from liabilities to assets, we find that the total of rateable property in England is estimated to produce a gross rental of £157,000,000, and to possess a rateable value of £133,000,000. When the capacity of the country to bear local taxation is being considered, it must not be forgotten that £4,000,000 a-year are paid as tithe, and that the land throughout England must be considered as mortgaged to this extent. The clergy do not get the whole of the tithe that is collected. About £1,000,000 is in the hands of lay impropriators; the remaining £3,000,000, however, are devoted to the payment of what has been called our moral police force. The expediency or non-expediency of tithes is a question falling quite outside the province of this series to discuss. All that we are concerned with is the fact that for rating purposes the land cannot be regarded as unencumbered, but must be considered as subject to a first charge in favour of the tithe owner.

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The extravagant cost of local administration and the alarming increase of local indebtedness are probably due to a variety of causes, among which the following are important. First, there is no really efficient control over local expenditure so long as the money raised is actually expended on the objects for which it was raised. In the second place, the standard of education and intelligence among local authorities generally is not so high as could be wished, and moreover, the classes from whom local authorities are chiefly selected are precisely those who derive most benefit from local expenditure, and have the least object in checking extravagance. Lastly, the complicated nature of our system of local government, with its ever-clashing and intersecting areas and authorities, whose accounts are made up at different dates, prevents the possibility of anything like a local budget. It is impossible to make out what is the total expenditure for any given locality. The ratepayer who essayed the task could only give it up in bewildered disgust. Nevertheless the question how local expenditure is to be controlled is fast assuming for the English citizen the aspect of the sphinx's riddle.

TABLE.

(*a.*) Dates of Election for different Authorities.

Town Councils—1st November.
Local Boards—First week in April.
Boards of Guardians—7th, 8th, and 9th April.
Highway Boards—25th March.
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(*b.*) Scale of Voting.

Town Councils—Occupiers one vote.

Local Boards—As owners, one vote to six votes, according to rating, up to £250. As occupiers, the same scale.

N.B.—Persons can vote in both capacities, and when rated up to £250 can have twelve votes.

Boards of Guardians—Owners and Occupiers respectively, according to same scale as Local Boards.

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School Boards—One vote, which is cumulative.

(*c.*) Tenure of Office.

Town Councils—Triennial; one-third retiring each year.

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Town Councils—Ballot; single vote.

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(*e.*) Qualification of Candidates.

Town Councillors—In boroughs divided into four or more wards, £1000, or be rated on an annual value of not less than £30. In other boroughs £500, or rated at not less than £15.

Guardians—Varies from £15 rating to £40 rating in different unions.

Local Board—£15 rating where the population is under 20,000, and £30 rating where the population is over 20,000. Personal property without rating is available, provided the amount be £500 or £1000, according to the population.

Burial Boards . }
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Note.—Some places, *e.g.* South Wales, with respect to highways, are for certain purposes governed by special Acts ; and in such cases the tables given above may be somewhat varied. In the Nottingham Union Guardians are elected for three years.

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CHAPTER III.

THE PARISH.

The Civil Parish—Different kinds of Parishes—History of the Parish—Decay of Parish Functions—The Vestry—Its Functions—The Overseers—The Ecclesiastical Parish—The Minister—The Churchyard and rights of Burial—Churchwardens and other Lay Officers.

I. *The Civil Parish.*

For most purposes of local government the term "parish" means the Poor-Law Parish. The poor-law parish is a district or area for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed.[1] The area thus designated, says a return by the Local Government Board, "may consist of an entire ancient parish, one or more highway townships, a parochial chapelry, a chapelry, a quarter, a hamlet, or some part of an ancient parish which is not known by any of these designations."

[1] By sec. 18 of the Poor Law Amendment Act, 1866 (29 and 30 Vict. c. 113):—"In all statutes, except there shall be something in the context inconsistent therewith, the word 'parish' shall, among other meanings applicable to it, signify a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed." The careful vagueness of this definition is a good illustration of the confusion which reigns supreme over all local matters in England.

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In 1873 a Select Committee was appointed to inquire into the question of parish boundaries. From their investigations it appears that the parish bears no definite relation to any other administrative area except the union. A parish may be situated partly in one county, partly in another; partly in a county and partly in a municipal borough; partly within the jurisdiction of a local board, and partly without. Again, the lands composing a single parish are by no means always within a ring-fence boundary. They are often separated from the lands of the mother parish by a considerable distance. In Yorkshire, at that time, there were more that seventy divided parishes, and one parish had no less than ten outlying portions intermixed with the lands of other parishes. The total number of divided parishes was over 1300. Three Acts, however, have now been passed—one in 1876, another in 1879, and a third in 1882, enabling the Local Government Board, under certain conditions, to readjust the boundaries of divided parishes, and either merge outlying portions in adjacent parishes or make them into new parishes. Very few orders have as yet been made under the powers given by these Acts. Apart from statutory readjustment, the boundaries of parishes are determined by immemorial custom, and are ascertained and evidenced by perambulations. These perambulations formerly were made annually in Rogation Week, but now it seems they should be made triennially, for the Poor Law Act of 1844[1] authorises the expenses of perambulations incurred by the parish officers to be charged to the poor rate, "provided the perambulations do not occur more than

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once in three years." The expense of setting up and keeping in repair the parish boundary stones may also be charged to the poor rate. Parishes are very unequal both in area and population. There are many parishes with an area of less than 50 acres, and many with an area exceeding 10,000 acres. There are 788 parishes with a population of less than 50 persons, and 6000 parishes with a population under 300. There are cases in Northumberland of parishes containing only five or six persons.[1] On the other hand, there is a considerable number of parishes with a population exceeding 30,000. The township of Toxteth, for instance, contains 107,000 inhabitants. The average population is about 1500, and the greater number of parishes have a population varying between 200 and 1000.[2] There is no power to consolidate small parishes, but the Poor Law Amendment Act of 1867 enables the Local Government Board, by Provisional Order, to subdivide a large parish on the application of one-tenth in value of the owners and ratepayers therein.[3]

There are other kinds of parishes besides the poor-law parish, which must be distinguished from it. There is the "Land-Tax Parish," which may be disregarded

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for purposes of local government.[1] There is the Highway Parish, which may or may not be identical with the poor-law parish. Many hamlets, villages, and tithings which are not separate poor-law parishes, are by custom separate highway parishes. The number of these parishes is not known; but in 1881 the number in respect of which returns were made to the Local Government Board was 14,777.[2] There remains the Ecclesiastical Parish, which was once identical with the civil or poor-law parish and is often confused with it, though there is now no necessary connection between the two. A hamlet, for instance, may be in one parish for ecclesiastical purposes, such as tithe; while it is in another parish for civil purposes, such as the poor rate. According to the Census Returns of 1871, the number of civil parishes in England at that date was 14,945. The number of ecclesiastical parishes was estimated at about 13,000, there being no returns available from which the exact number could be ascertained. Now that the civil and ecclesiastical divisions of the land have parted company, it seems a pity that the ecclesiastical term "parish" is not confined to the ecclesiastical division. The old word township might then be used exclusively to denote the civil division.

From a historical point of view the parish is the most interesting of our local institutions. Primarily the parish is merely the old township in its ecclesiastical aspect.[3]

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We can therefore trace the descent of the modern civil parish, through the ecclesiastical parish, up to the old Saxon township. Some have carried its lineage still higher. "The township," says De Tocqueville, "is the only association which is so perfectly natural that wherever a number of men are collected it seems to constitute itself. If man makes monarchies and establishes republics, this, the first association of mankind, seems constituted by the hand of God Himself." Without going back quite so far as this, it may be safely said that the English parish is the legitimate descendant of the Teutonic mark, and that the English parish, the New England township, the French or Belgian commune, and the village community of Northern India, are but variations of one common type which reproduces itself wherever the Aryan race is found. Whether the Teutonic mark system was ever introduced into England by our Saxon forefathers may be an open question; but the Saxon township owed many of its distinguishing characteristics to the mark system. The township was so called from the tun or hedge which surrounded the group of homesteads. Around the homesteads were the township lands, held chiefly in common, but partly also in the separate ownership of the freemen who dwelt there. The constitution of the township was democratic. Every freeman took part in the business of its gemot or assembly; one and the same assembly made its bye-laws, held the township court, elected its officers, and managed its affairs. Its officers were the gerefa and the tithing-man. The functions of the gerefa were, it seems, judicial. He, too, with four chosen freemen, represented it in the hundred court and in the shire moot. The tithing-man was its peace officer.

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The ecclesiastical organisation of England is of later date than its civil organisation, and the parish therefore is a more modern institution than the township. The parish, says Professor Stubbs, was the township or cluster of townships to which a single priest ministered, and to whom its tithes and ecclesiastical dues were paid.[1] As many townships were too small to require or support a separate church and priest, many parishes contained several townships. Where the boundaries of parishes and the townships they represent or contain do not coincide, the divergence will for the most part be found to be due to recent legislation. The division of the kingdom into parishes seems not to have been completed till the reign of Edward III. In the meantime, however, a great change had passed over the civil organisation of the township. England had been feudalised, so had the township. Its old organisation had disappeared and reappeared in the dual form of the vestry and the manor courts, representing, it has been said, both Church and State. The exact steps by which the republican township became merged for most purposes in the more or less constitutional monarchy of the manor are not easy to trace, but the substantial identity of the two is clear. "The manor," says Professor Stubbs, "was nothing more nor less than the ancient township, held by a lord who possessed certain judicial rights, varying according to the form of the grant by which he was infeoffed. Every manor had a court baron, the ancient gemot of the township, in which bye-laws were made and other local

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business transacted. Certain manors had also a court leet, which exercised a criminal jurisdiction."[1] In such case the suitors who attended were excused from going to the court leet of the hundred. Manors and manorial courts have now long ceased to play any part in local government, and for the present purpose their fortunes need be no further followed. As the jurisdiction of the manor was defined by charter, all matters arising outside it fell to the management of the vestry, which primarily was the gemot or assembly of the township for ecclesiastical matters only, but which subsequently became the assembly of the inhabitants for any purpose, lay or ecclesiastical, outside the manorial jurisdiction. As vestries began to exercise civil functions, we find that for civil purposes the terms parish, town, township, tithing, and vill come to be used as synonymous, though for ecclesiastical purposes the term parish is always kept to. The modern parish may perhaps be said to date from the famous statute of Elizabeth (43 Eliz. c. 1) which established the poor law on its present basis, and directed overseers of the poor to be chosen for each parish, making the churchwardens *ex officio* overseers. Since that time, whenever the Legislature has created fresh functions for the township, it has preferred the ecclesiastical to the feudal organisation, and has bestowed them on the parish and not on the manor. Hence it is the clergyman, and not the lord of the manor, who of right presides over the parish assembly or vestry. It remains for us to show how it has come about that the ecclesiastical parish and the civil parish which were once identical, are now no longer so. There are now about 15,000 civil and 13,000

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civil parishes have no connection with ecclesiastical parishes.

As an administrative unit, the parish now is not of much importance. Its varying size and primitive organisation render it unfit for efficient administration; and one by one its governing functions have been taken from it and transferred to others. In 1834 poor-law administration was taken out of the hands of the vestry and transferred to the guardians. The establishment of the county police in 1856 superseded the necessity for the old parish constables, and by an Act of 1872 the office of parish constable is permissively abolished.[1] By the Public Health Act of 1872 the sanitary functions of the vestry in rural districts were transferred to the guardians as the rural sanitary authority. In urban districts vestries had for some years ceased to have sanitary powers. The main importance of the parish at the present day is as the unit for taxation and electoral purposes. All rates included in the poor rate are collected parochially, and the lists of voters for parliamentary and municipal elections are also made out parochially.

The essential organisation of the parish consists of the Vestry and Overseers. The vestry, as we have seen, was primarily the assembly of the township for ecclesiastical matters, and derived its name from the old place of meeting.[2] If we go back some 300 years we shall

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Vestries are either (*a*) Common or (*b*) Select. The usual definition of a common vestry is "the ratepayers of the parish in vestry assembled." Every ratepayer, whether resident or non-resident, is entitled to vote. Three days' notice of a vestry meeting must in all cases be given. The minister of the parish, if present, is entitled to take the chair. If he is not present, or perhaps in all cases where the parish is not also an ecclesiastical parish, the meeting may elect its chairman. Minutes of the meeting must be taken, which the chairman must sign. The opinion of the meeting is taken by show of hands, but any one present is entitled to demand a poll. If a poll be taken the system of voting is plural, the

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In a few parishes there are select vestries by custom. The custom then determines the number of the vestrymen and their mode of election, which is usually by co-optation. Such vestries have doubtless arisen through the apathy of the majority of the inhabitants as to their parochial rights.

Statutory select vestries were created by an Act of 1831, commonly known as Hobhouse's Act.[1] The Act is permissive and can only be adopted by parishes having more than 800 ratepaying inhabitants. It must be adopted after due notice to the parishioners by a two-thirds vote. The select vestry under the Act is elected by the ratepayers. At this election a ratepayer has only one vote. The number of select vestrymen is fixed at twelve for every 1000 ratepayers, but the total number must not exceed 120. The clergyman of the parish and the churchwardens are *ex officio* members. One-third of the members of the select vestry retire annually. The Act further provides for the publication of the accounts of parish charities, and the election of auditors to audit the accounts. As the Act has been repealed as regards the Metropolis, where it had been largely adopted, it is believed that there are not now many parishes governed under it.

The functions of the vestry consist mainly in managing the parish property and charities, if there be any, and in adopting and working certain permissive Acts

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A vestry, for instance, may, under certain restrictions, adopt and put in force the provisions of the Free Libraries Act. It may also provide for the lighting a rural parish by adopting the provisions of the Lighting and Watching Act, 1833. It may decide that a new burial ground is required, and in that case appoint the burial board. As we have seen, however, most of its regular functions have been taken from it.

In large parishes there is power to appoint a salaried vestry clerk, who acts as secretary to the vestry and assists the overseers in the performance of their duties.

The officers of the civil parish are "the overseers of the poor." Where a civil parish is also an ecclesiastial parish the churchwardens are *ex officio* overseers. There are also in every parish nominated overseers. The Act of Elizabeth directed that "four, three, or two substantial householders" should be nominated in every parish as overseers. Subsequent enactments enable a single overseer to be appointed. The overseers are nominated annually by the justices, and the appointment must be made on the 25th of March, or within fourteen days afterwards. Service in the office is compulsory, subject to certain exemptions and disqualifications. A person, however, who is appointed against his will may appeal to the Quarter Sessions. The overseers are unpaid. They have no power to appoint or pay a deputy; but the vestry may elect one or more "discreet persons" to be assistant overseers, and to perform all or any of the duties of the overseers. The persons so elected are then duly appointed under the seal of two justices. The salary of the assistant overseers is paid out of the poor rate. They are required to find security. On the

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application of the guardians a paid collector may also be appointed for any parish in the union.

The duties of the overseers in respect to poor relief have been transferred to the guardians, but the overseers still have power in cases of immediate urgency to order relief to be given. It is the duty of the overseers to prepare the jury list, and to make out and publish various lists of voters for parliamentary and municipal elections. They also publish the list of claims and objections, and are bound to attend with their books at the revision courts.

Their main function, however, is the making and levying of the poor rate. "The poor rate," says Mr. R. S. Wright, "is levied by an uniform assessment or poundage on the net rateable value of all the lands, houses, and mines in the parish. The valuation list is settled by the Union Committee, and the overseers, when proceeding to make a poor rate, copy the valuation list or the former poor rate, with amendments, adding to it a statement of the number of shillings or pence in the pound which will produce the required sum, and a column showing the amount to be paid by each occupier, and another column for arrears and sums excused. The document so filled up is properly called an 'assessment.' A declaration of its correctness is signed by the overseers, and it is submitted to justices for their allowance, which cannot be withheld if the rate is in proper form. When allowed it becomes a 'rate.' It must be published, and inspection of it must be permitted to ratepayers and certain authorities. The amount due from any person ought to be demanded in writing." There are some complicated provisions under which the owners of

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small tenements may compound and pay the rates instead of the occupiers. The most important provisions on the subject are contained in an Act of 1869, under which owners of tenements rated at £8 or under may, by agreement with the vestry, compound at a reduction of 25 per cent, or may be compelled by the vestry to compound at a reduction which may amount to 30 per cent.

It must be remembered that many expenses not connected with the relief of the poor are by statute directed to be discharged out of the poor rate, and that some other rates may be collected with, and as if they formed part of, the poor rate. The borough rate, for instance, may be so collected.

II. *The Ecclesiastical Parish.*

Since the abolition of compulsory church rates by the Act of 1868, the Ecclesiastical Parish has ceased to be of much practical importance for purposes of local government. It is almost entirely a permissive institution. Still it once played a great part in English local affairs, and it has but recently left the scene, so that a short description of it may not be out of place. Besides, though an English citizen owes but few duties as an ecclesiastical parishioner, he has some important general rights in that capacity which the law will give effect to. In the theory of English law every Englishman is a member of the Church of England. The privilege of dissent is conferred on Englishmen by a long series of statutes, each dealing with a particular point and removing some special grievance; but by the exercise of his privilege of dissent an English citizen does not forfeit his legal

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rights as a member of the National Church; he is only relieved from certain corresponding and irksome duties which were formerly imposed upon him. It must not be forgotten that dissenter and churchman alike pay tithes, both ordinary and extraordinary. The affairs of the ecclesiastical parish are regulated by the vestry, which is, properly speaking, an assembly of the minister, churchwardens, and parishioners. It was, and perhaps still is, the duty of the vestry to make church rates, in order to provide the necessary funds for the repair of the church and churchyard, and for keeping up the fittings and ornaments of the church. An Act of 1868 [1] provides that the payment of church rates (except where they had previously been mortgaged) shall no longer be enforced by any legal process. But the Act distinctly recognises their validity, for it provides that bodies-corporate and trustees may pay church rates, and that the sums so paid shall be allowed them in their accounts. It further declares that no person who has made default in payment of a church rate shall be entitled to vote in respect of the expenditure of any monies arising therefrom. Church rates therefore form an apt illustration of what lawyers designate a duty of imperfect obligation—that is to say, a duty recognised as such, but enforced by no sanction. The minister is the clerical, and the churchwardens are the civil officers of the ecclesiastical parish. The minister, whether he be rector, vicar, or incumbent, constitutes what is called in law a corporation-sole—that is to say, the law, in regulating his rights and obligations regards the office and not

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the individual that fills the office. The duties of the minister consist in the performance of the offices of the Church as by law ordained. He has also certain civil functions, by virtue of which he is bound to act as registrar, and to record, for civil purposes, the baptisms and marriages at which he has officiated in his clerical capacity. He is also bound to register all burials which have taken place in his churchyard, and is entitled to the customary fee therefor, whether he has officiated at the funeral or not. The minister, as such, has the custody of the church; and for many purposes the freehold of it, as well as of the glebe, is regarded as vested in him. The freehold of the churchyard is also vested in the minister, but he holds it subject to the rights of the laity as regards interment therein. By the common law any person, whether a parishioner or not, who dies within the parish is entitled to be buried in the parish churchyard; and a person who dies in another parish is entitled to be buried in his own parish churchyard. Until two years ago this common-law right of interment was subject to an ecclesiastical qualification. No person could be buried in consecrated ground except according to the rites of the Church of England; and the laws ecclesiastical forbade the rites of the Church to unbaptized persons, or to any person who had died excommunicate, or who had feloniously died by his own hand. The Burial Laws Amendment Act of 1880 does not in terms abolish this qualification of the common-law right, but it sweeps away the foundation on which the qualification rested. By that Act the relatives of a deceased person entitled to burial in the parish churchyard may, on

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giving the prescribed notice, have him buried there without the intervention of the minister. The interment may take place either without any religious service or with "such Christian and orderly service" as the relatives may think fit. The Act further enables clergymen of the Established Church to omit in certain cases the burial-service, and to substitute for it such prayers from the prayer-book as the bishop may approve. By an Act of 1882[1] where a coroner's inquest finds a verdict of *felo de se*, the coroner may no longer direct the body of the suicide to be interred "in a public highway, or with any stake driven through the body of such person," but he is to direct the body to be interred in the churchyard or burial-ground, where it might have been interred if no verdict of *felo de se* had been found. The language of the Act is obscure, but it seems to forbid the "rites of Christian burial" in such case. Considering the stage of civilisation to which we have advanced, it is curious that this legislation did not come somewhat earlier.

The main lay officers of the ecclesiastical parish are the churchwardens. They are usually two in number, and are elected annually during the first week after Easter. If the minister and parishioners do not agree on the persons to be chosen, the minister nominates one, and the vestry selects the other. The bishop of the diocese is said to have a right of veto if an obviously unfit person be elected to the office. Any ratepaying householder is eligible, and, as is the case with most local offices in England, service is compulsory. Peers and members of Parliament are by common law exempted from the duty of serving as churchwardens, and a similar

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CHAPTER IV.

THE UNION.

The Union—History of Unions—Central Control—The Guardians—Their Election—Their Duties.

FOR poor law purposes primarily, but incidentally for other purposes also, England is divided into unions. The Union may be defined as the area which is under the jurisdiction of a Board of Guardians. For the most part it consists, as its name implies, of an aggregation of poor-law parishes; but the constitution of a union may be conferred on a single parish if the population warrant it. There are 649 unions, of which 25 are single parishes, and the rest are aggregations of parishes.[1] The unions are very unequal in size and population, and often very irregular in form. The boundaries of the union never intersect those of the poor-law parish; but they are laid down without reference to any other area of local government. Out of the 649 unions,[2] 181 cut county bound-

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aries. As examples of inequality in size:—Welwyn Union in Hertfordshire contains 4 parishes, and has 5 guardians. In Morpeth Union there are 72 parishes and 75 guardians. Lincoln Union has 104 guardians. Comparing purely rural unions:—in 1871 Presteign Union had a population of 4000 and an area of 40 square miles, while Tavistock Union had a population of 32,000 and an area of 250 square miles.

Our present poor-law system dates from 1601. Our present mode of administering it dates from 1834, when the management of poor relief was taken out of the hands of the vestries, and transferred to the guardians. The history and working of the poor laws is the subject of another volume of this series,[1] so that all that will be attempted here is a brief description of our local poor-law machinery.

As early as 1662 certain parishes began to be united for poor-law purposes by special Acts, and by a permissive statute passed in 1782, commonly known as Gilbert's Act, parishes were allowed to combine for purposes of indoor relief. But the present scheme of organisation is the creation of the Poor Law Amendment Act, 1834. Parish management and the policy of the bastardy laws had completely demoralised the rural poor. One of the first works of the Reformed Parliament was the entire remodelling of the poor-law administration. A central body of commissioners, with very large powers, was constituted. The Commission was entrusted, among other matters, with the duty of grouping parishes into unions under the local administration of Boards of Guardians. A few years later the Commission was made a permanent

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ticular parishes. The transfer of a parish from one union to another may obviously alter very considerably the proportion of expenses which it may be called on to contribute. Though the pauper is always with us, he is not evenly distributed over the face of the country. By an Act of 1879 the Local Government Board may, with the consent of the guardians, combine unions for any purpose or purposes connected with the administration of the poor law. No union officer can be appointed, except in the case of menial servants, without the sanction of the Local Government Board, and the officers when appointed may be removed by the Board without consulting the guardians. The Board, too, audits all union accounts. In the case of unions central control is very complete. The wires, therefore, can all be pulled from London. Whether the poor laws should be administered uniformly throughout the country, or whether local authorities should be allowed to impress their own individuality on their administration, is a wide question which need not be discussed here. One point, however, seems clear. The local authority ought to have the power of dismissing its own officers. Under the present system it is very difficult to get rid of a merely incompetent or unsuitable officer. A man may be thoroughly unfit for his post—a very square peg in a very round hole—yet it may be almost impossible to formulate any complaint against him which would enable the central authority to remove him. The local body ought to be able to enforce a separation on the ground of "incompatibility of temper" without resort to any higher authority.

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Metropolis, the guardians consist of two classes, namely, elective guardians and *ex officio* guardians.[1] The justices of the peace—resident within the area of the union—are the *ex officio* guardians. It is said that the justices as a body very seldom attend the board meetings, though the chairman of the board is not unfrequently an *ex officio* guardian. The number of elective guardians in a union is determined by the Local Government Board, subject to the limitation that there must be at least one guardian for every constituent parish. For elective purposes a parish with a population of less than 300 may be united by order of the Board to the adjoining parish. To give an illustration—A parish with a population of 50 might be united with a parish containing a population of 1000, and only two guardians might be allocated to the amalgamated areas. This, of course, would be a practical merger of the smaller in the larger parish. The property qualification of the elective guardians is fixed by the Local Government Board. There is, however, this restriction: the qualification may not be fixed higher than a ratal of £40 a year. For the most part guardians hold office for one year. If, however, the majority of ratepayers in a parish or union pass a resolution to the effect that the tenure of office should be made longer, the Local Government Board may alter the tenure. Under this power the Board have fixed the tenure of guardians in the Nottingham and Leeds Unions at three years instead of one. The ordinary annual elections are held in April. The clerk to the

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guardians acts as returning-officer. The persons entitled to vote at the election of guardians are the owners and ratepayers of the electing parish. If the population of a parish exceed 20,000, it may be divided into wards, one or more guardians being allotted to each ward. The system of plural voting prevails, and a person may have from one to six votes, according to his property qualification. A resident owner may vote both as owner and ratepayer. The effect of that is that resident owners with a sufficient property qualification may have twelve votes. Property of a ratal value of less than £50 gives one vote. If the value exceed £50, but is less than £100, it carries two votes. Every additional £50 of value up to £250 gives an additional vote.

Owners must claim and be registered in order to be entitled to vote as such. The rate-books of course show the occupiers who are entitled. A non-resident owner may appoint a proxy to vote for him. Any person entitled to vote may nominate himself, or any other person with the requisite qualification, for the office of guardian. A person nominated as a guardian may decline the honour. In this respect the office differs from many local offices in England, where, as we have seen, service is obligatory. When the number of persons nominated for any parish or ward exceeds the number of guardians to be elected, the provisions for a contested election come into play. The contest is conducted by means of voting-papers, which are delivered at the house of each voter or proxy. The papers are directed to be left at the houses of the voters to be filled up on the 7th of April. They must be collected on the 8th—that is to say, the next day—and on the 9th, or as

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soon as may be afterwards, the returning-officer declares the result of the poll. In some respects this system of voting is more convenient than the ballot; it is also cheaper. Certainly, too, more persons will vote if the election comes to them instead of their being obliged to go to the election. The objection urged against the system is the ease with which voting papers can be tampered with. The Select Committee of 1878[1] reported that "it was shown that the abuses and inconvenience of the voting paper system, as at present carried on, were very grave; that under it intimidation, abstraction, tampering with and forgery of voting papers, were practised; that frequently voters did not receive their papers at all, and that in other cases they were invalidated for trifling technical reasons." The chief cause of the malpractices appears to be that the men are away from home when the papers are left, and that their wives are induced to fill them up in their husbands' names, without their authority. When any dispute arises as to the election of a guardian, it is the province of the Local Government Board to decide the matter. Sometimes this is done by correspondence, but when the nature of the case requires it, a local inquiry may be ordered. In towns it is said the elections are chiefly contested on political grounds, while in the country districts they turn on personal considerations.

The primary function of the guardians is the administration of poor relief. Subject to confirmation by the Local Government Board, they appoint the relieving and medical officers for the union, and the workhouse masters, chaplains, and schoolmasters. They control

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the administration of relief, and supervise the management of the workhouses and pauper schools. On two questions the guardians have to exercise an important discretion. First, they have to decide in any particular case whether outdoor relief should be given or the workhouse test applied. As regards this question the poor law is very unequally administered in different unions. In some the policy of the Act of 1834 is rigorously carried out—perhaps too rigorously. In others the Local Government Board complains, "The old abuse of relief in aid of wages must largely prevail in some form or other."[1] Secondly, when outdoor relief has to be given, the guardians must decide whether it shall be given in money or in kind. The latter mode of relief has many advantages. "It has been a frequent source of complaint," say the Local Government Board,[2] "that of relief in money only a small portion reached the wives and other members of the family for whose sustenance it was given; and that in the rural districts the greater portion was spent in the beer shops, and in the towns was expended in the gin shops. Relief in kind we found less liable to misapplication. If, instead of giving to a pauper a weekly allowance in money, an allowance be given in food or other necessaries of the same value, he can only obtain a reduced amount of his wonted description of indulgence by the misappropriation of the relief in kind. . . . In the year 1881 the relief to out-paupers in money was £2,297,000, but in kind it only amounted to £325,000; that is to say, for £7 given in the objectionable shape of money, only £1 is now administered

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The parish valuation-lists are made out by the overseers, but they are subject to revision by a committee of the guardians, called the Assessment Committee, who hear and determine objections. An appeal lies from the guardians to the Quarter Sessions. Though the guardians are primarily the poor law authority, several matters unconnected with poor relief have lately been entrusted to their management. In rural districts, where there is no school board, a committee of the guardians constitutes the school-attendance committee. The guardians, too, are now the rural sanitary authority,"[1] and under an Act of 1878, when the area of a union is coincident with the area of a highway district, they may also become the highway authority, with all the powers of a district highway board. It is the duty of the guardians to appoint and pay the registrars of births and deaths, and to see that they are provided with suitable offices. The enforcement of the Vaccination Acts and the Bakehouse Regulation Acts is also entrusted to them. In populous places it is easy to imagine that their position is no sinecure. "They are often obliged," says a recent Lords' Committee,[2] "to attend for six hours or more to get through their present, which constitutes a heavy tax

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CHAPTER V.

THE MUNICIPAL BOROUGH.

English Towns—Creation of New Boroughs—History of Municipal Boroughs—The Municipal Corporations Act—Constitution of the Borough or City—Borough Officers—Functions of the Council—Borough Finance—Central Control.

In England there is no system of town government as such. A certain number of favoured towns are incorporated and have a legal existence under the Municipal Corporations Act. For purposes of local government these only need be considered. A few more have Improvement Commissioners, who, under special Acts, are charged with the duty of carrying out certain specified works of public utility, such as lighting, paving, sewering, and the like. Certain ancient towns have charters of incorporation, which enable them to hold and administer property for the benefit of those who have the freedom of the borough. For the most part, too, these ancient boroughs have mayors, aldermen, town councillors, and all the paraphernalia of urban government; but the functions of these officials, as regards local administration, are either purely nominal, or, like those of the human spleen, undiscoverable.[1]

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The great majority of towns in England have no legal existence or recognition. They are merely geographical names to denote certain arbitrarily defined or undefined areas, having an urban population. Take for instance Croydon, a well-known assize town in Surrey. What is meant by an inhabitant of "Croydon"? The parish of Croydon, or the local-board district of that name, or the school-board district, or all or none of them, may be intended. In 1871 there were 938 towns with a population of over 2000; of these only 229 were governed by municipal corporations under the Act of 1835, and 51 more had Improvement Commissions. There are now 242 municipal boroughs; but the number of towns, with a population exceeding 2000, has probably more than proportionally increased. This possession of municipal existence and privileges has no connection with the size of the population. There are 15 municipal boroughs with a population of less than 3000 inhabitants, and there are a great many towns with a population exceeding 25,000, which have no system of municipal government. The Municipal Corporations Act provides for the creation by charter of new municipalities. The procedure is as follows:—When a certain unspecified number of inhabitant-householders in a town deem themselves worthy of a municipal government, and wish to try the experiment, they may petition the Queen in Council to grant them a charter of incorporation, and to extend to the borough thus constituted the provisions of the Municipal Corporations Act. The petition is then advertised in the *London Gazette* and referred to a Committee of the Privy Council, who direct a local inquiry, in which evidence is taken for and against the proposal. Petitions for char-

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type, and the mechanism by which its operations ar carried on is practically the same in every borough Liverpool, with its population of half a million, is admin istered exactly in the same way as Chippenham, a littl county-town of 1300 inhabitants. Before proceeding t examine the system of municipal administration whic now prevails, it may be worth while to take a glimps back into the past, and to see what has been the histor of municipal institutions in England.

The "burh" of the Anglo-Saxon period, says Pro fessor Stubbs, was simply a more strictly organise form of township. It had a ditch and mound in stead of a "tun" or hedge. As the "tun" wa originally the fenced homestead of the cultivator, th "burh" was the fortified house and courtyard of th great noble.[1] Around his house and under his pro tection smaller men would naturally congregate, an the town, in the modern sense of the word, would thu arise. By the time of the Norman Conquest we fin that many of the towns in England had acquired th constitution of the hundred rather than that of th township, and that they were therefore exempt fro the jurisdiction of the hundred courts. In several case in addition to holding their own courts, they ha obtained the right to compound for taxation. But the was nothing approaching to the modern idea of a co poration, with its legal personality, its common sea and its perpetual succession. Even London under i port-reeve and bishop, the two officers who seemed t give it a unity and identity of its own, was only a bundl of communities, townships, and parishes, each of whic

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had its own constitution.[1] As time went on, we find the towns gradually acquiring further privileges by grant or charter from the lord or the king himself. The most important of these was the "*firma burgi*," the right to pay a fixed sum by way of composition for taxes, and to assess and pay that sum themselves. As the towns acquired importance in the country at large, by reason of their wealth and trade, so the trade guilds acquired strength and importance in the towns themselves. The regulation of trade fell into their hands, and their privileges were frequently confirmed by charters. It must not be thought, however, that the towns developed on any uniform principle. Each town had its peculiar constitution and customs, though a certain general resemblance may perhaps be recognised throughout. The history of municipal institutions, in their broad outline, between the reign of Henry III. and that of Henry VII. is thus summed up by Professor Stubbs :—[2]

"In 1216 the most advanced among the English towns had succeeded in obtaining, by their respective charters, and with local differences, the right of holding and taking the profits of their own courts under their elected officers, the exclusion of the sheriff from judicial work within their boundaries, the right of collecting and compounding for their own payments to the Crown, the right of electing their own bailiffs, and in some instances of electing a mayor, and the recognition of their merchant guilds by charter, and their craft guilds by charter or fine. At the close of the period the typical constitution

[1] Stubbs's *Const. Hist.* vol. i. p. 404.
[2] *Const. Hist.* vol. iii. p. 559.

had its own constitution.[1] As time went on, we find the towns gradually acquiring further privileges by grant or charter from the lord or the king himself. The most important of these was the "*firma burgi*," the right to pay a fixed sum by way of composition for taxes, and to assess and pay that sum themselves. As the towns acquired importance in the country at large, by reason of their wealth and trade, so the trade guilds acquired strength and importance in the towns themselves. The regulation of trade fell into their hands, and their privileges were frequently confirmed by charters. It must not be thought, however, that the towns developed on any uniform principle. Each town had its peculiar constitution and customs, though a certain general resemblance may perhaps be recognised throughout. The history of municipal institutions, in their broad outline, between the reign of Henry III. and that of Henry VII. is thus summed up by Professor Stubbs :—[2]

"In 1216 the most advanced among the English towns had succeeded in obtaining, by their respective charters, and with local differences, the right of holding and taking the profits of their own courts under their elected officers, the exclusion of the sheriff from judicial work within their boundaries, the right of collecting and compounding for their own payments to the Crown, the right of electing their own bailiffs, and in some instances of electing a mayor, and the recognition of their merchant guilds by charter, and their craft guilds by charter or fine. At the close of the period the typical constitution

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of a town is a close corporation of mayor, aldermen, and council, with precisely defined organisation and numbers, —not indeed uniform, but of the same general conformation, possessing a new character denoted by the name of corporation in its definite legal sense, with powers varying in the different communities and in practice susceptible of wide variations." The first historical mayor was Henry Fitz Alwyn, Mayor of London. In 1215, on his death, King John granted to the citizens the right of electing their mayor annually. The mayor was assisted by twenty-five sworn citizens or jurats, who seem afterwards to have acquired the name of aldermen, though that title was originally applied to the heads of the craft guilds. As London was the most powerful and privileged of the towns, the other towns would naturally take it as their model, and try to secure for themselves like privileges and institutions. The constitutional history of Leicester may be taken as typical of that of many other boroughs. "The chief court of the town was the portman-mote, in which the bailiff of the lord continued to preside until 1246. There was also a merchant guild presided over by aldermen. From the year 1246 a mayor took the place of the alderman and edged out the bailiff, but the portman-mote and merchant guild retained their name and functions. Under the merchant guild were the craft guilds. The tailors' guild paid ten shillings to the merchant guild for every new master tailor enfranchised, and doubtless the other trades did the like. In 1464 Edward IV. recognised the position of twenty-four common burgesses and a court of common council, who in 1467 were empowered to elect the mayor. In 1484 the

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twenty-four took the title of aldermen, and divided the town into twelve wards; and in 1489 the mayor, twenty-four aldermen, and forty-eight councillors, formed themselves into a strictly close corporation, took an oath by which all the other freemen were excluded from municipal elections, and in 1504 obtained a fresh charter confirming their new constitution."[1] In many of the towns, however, though the type of administration was similar, it was rested on a more representative basis. The councillors were elected from among and by the freemen at large. In nearly all the freedom of the borough could be obtained by gift or purchase as well as by service, marriage, or descent. There was always, however, a large body of inhabitants who were outside the privileged class, and who in consequence were subject to various vexatious restrictions and imposts. In substance, then, the chartered towns had, in the fifteenth century, acquired much of the form and organisation which we find existing at the time when they were so searchingly overhauled by the Royal Commission of 1835. During the reign of Richard II. began the practice of including in municipal charters a provision making the corporate officers justices of the peace. Each chartered borough or city, moreover, had the right of sending one or more burgesses to Parliament to represent it there. The first charter which expressly recognises this right was that granted to Wenlock in the reign of Edward IV.; but the chartered recognition of the right was probably in many cases a mere confirmation of existing privileges. In the middle ages the policy of the Crown was to strengthen the towns in order to create

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a counterpoise to the power of the nobles. Until the reign of Henry VII. the encroachments on popular liberty within the towns themselves had been local and spontaneous, but during the Tudor period the Crown began to grant charters vesting all the powers of municipal government in the mayor or other head officer and the council. By many of these charters the same governing body was entrusted with the exclusive right of returning members to Parliament. The Crown was no longer afraid of the aristocracy, and in many instances the office of high steward was created and given to some powerful peer or landowner, who became the patron of the borough, and practically disposed of the parliamentary seat.[1] The Commonwealth, however, crushed the power of the aristocracy, and at the time of the Restoration the Crown and Court party found themselves opposed by the towns as the representatives of democracy. The middle classes in the main were whig and protestant. It was therefore determined to attack the boroughs through the courts of law. A *quo warranto* information was instituted by the Attorney-General against the City of London, and its charter was declared by the Court of King's Bench to be forfeited, on the ground that it had exceeded its jurisdiction in the exaction of certain market tolls. The forfeiture was not insisted upon, but the City was allowed to continue to possess its franchises upon submission to certain regulations—such, for instance, that no mayor, sheriff, or recorder should be admitted until approved by the king—which made it thoroughly subservient to the Crown. After the fall of the capital *quo warranto* informations

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[2] *Rep. Mun. Corp.* 1835, p. 17.
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Where a town, not being a city, is governed by the Muncipal Corporations Act, the municipal corporation of the place consists of the mayor, aldermen, and burgesses, and is named accordingly.[1] For instance, the proper style of the corporation of Cambridge is "the mayor, aldermen, and burgesses of Cambridge." When a corporation contains a cathedral and a bishop, it is entitled to the more dignified name of city, and its burgesses are styled citizens; but for purposes of local government the distinction is purely one of name. The

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proper style of the corporation of Oxford, therefore, is the mayor, aldermen, and citizens of Oxford.[1]

The boundaries of municipal boroughs have not been settled on any definite principle, and there is no power of readjusting them without a special Act of Parliament. They intersect parishes, unions, and counties. A municipal borough is frequently not conterminous with the parliamentary borough of the same name. The boundaries of the borough may or may not be, though they usually are, the boundaries of the sanitary district and school board of the place. In short, boroughs are carved out of the surrounding country in the same haphazard way as other local areas in England.

Freemen, as such, have no rights as burgesses. They are entitled to the parliamentary franchise; and their rights to a share in corporate property and charities, which existed prior to 1835, are carefully preserved; but no claim to exemption from any borough tolls or dues is to be recognised.[2] No person can now be admitted a freeman by gift or purchase.

The municipal franchise is rested on a firm basis of ratepaying residence. Every person who occupies a house, warehouse, shop, or other building in the borough for which he pays rates, and who resides within seven miles of the borough, is entitled to be enrolled as a burgess. The right of women to be enrolled and vote as burgesses is expressly recognised by the Act;[3] but it does not appear that they may hold any corporate office.

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The governing body of the borough is the Council. The Act provides that a municipal corporation "shall be capable of acting by the council of the borough, and the council shall exercise all powers vested in the corporation. The council shall consist of the mayor, aldermen, and councillors."

The number of councillors is fixed when the borough is incorporated under the Act. The qualification for a councillor is that he should be "qualified to elect to the office of councillor"—that is to say, be enrolled as a burgess, or that, being qualified, except in the matter of residence, he should reside within fifteen, though beyond seven miles from the borough, and have also an extra property qualification. A person who is interested in any contract made with the council, or who is in holy orders, or the regular minister of a dissenting congregation, is disqualified for the office of councillor. Elections

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to the council are held on the 1st of November in every year. The term for which a councillor holds office is three years, and every year one-third of the councillors go out by rotation. An outgoing councillor is eligible for re-election.

The election of councillors is conducted on the model of a parliamentary election. If a borough is not divided into wards the mayor acts as returning-officer. If it is divided into wards, elections to the council are held simultaneously in the different wards, and an alderman assigned for the purpose to each ward acts as returning-officer. If more candidates are nominated than there are vacancies, and a poll is demanded, the election is conducted by ballot, as nearly as may be in accordance with the provisions of the Ballot Act, 1872. In the great majority of boroughs the elections are governed by considerations of party politics. A municipal election is regarded as a means of feeling the political pulse of the inhabitants, and purely local questions seem to have but little influence on the result. Persons guilty of corrupt practices at a municipal election are liable to be punished in the same way as if the offence had been committed at a parliamentary election. If it be desired to question an election on the ground of corrupt practices thereat, the procedure is by petition to the High Court. The petition is tried by a commissioner sent down by the High Court, who must be a barrister of not less than fifteen years' standing. The procedure before him for the most part resembles the procedure in a parliamentary election petition.

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The election of councillors is conducted on the model of a parliamentary election. If a borough is not divided into wards the mayor acts as returning-officer. If it is divided into wards, elections to the council are held simultaneously in the different wards, and an alderman assigned for the purpose to each ward acts as returning-officer. If more candidates are nominated than there are vacancies, and a poll is demanded, the election is conducted by ballot, as nearly as may be in accordance with the provisions of the Ballot Act, 1872. In the great majority of boroughs the elections are governed by considerations of party politics. A municipal election is regarded as a means of feeling the political pulse of the inhabitants, and purely local questions seem to have but little influence on the result. Persons guilty of corrupt practices at a municipal election are liable to be punished in the same way as if the offence had been committed at a parliamentary election. If it be desired to question an election on the ground of corrupt practices thereat, the procedure is by petition to the High Court. The petition is tried by a commissioner sent down by the High Court, who must be a barrister of not less than fifteen years' standing. The procedure before him for the most part resembles the procedure in a parliamentary election petition.

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number, according to the size of the borough. Any person who is, or who is qualified to be, a councillor, may be elected an alderman. The aldermen are elected by the council at the ordinary quarterly meeting on the 9th of November. The mode of election is by voting papers, signed and personally delivered to the chairman of the meeting. In the case of equality of votes the chairman has a casting vote. If a councillor is elected an alderman he thereby vacates his office as councillor. The aldermen hold office for six years, one half of the whole number retiring by rotation every three years. Their longer tenure of office is intended to give an element of stability and continuity to the policy of the council. If the mayor is temporarily incapacitated an alderman may act for him, and, as we have seen, where a borough is divided into wards, an alderman acts as returning-officer; but apart from what has been referred to, an alderman has no greater powers or other functions than an ordinary councillor.

The Mayor is the chief officer in the corporation. He has precedence of all persons in the borough. The mayor is elected by the council from among the aldermen or councillors, or persons qualified to be such. An outgoing alderman is eligible, and as a fact an alderman is usually selected for the office. As he represents the borough on public occasions, and especially when it is dispensing hospitality, it is only fair that he should receive a salary. The amount of his remuneration is fixed by the council. The election takes place on the 9th of November at the ordinary quarterly meeting of the council, and the statute directs that it shall be the first business transacted at the meeting. The mayor is

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ex officio a magistrate for the borough, and chairman of all meetings of the council. With the exception of the mayor and ex-mayor, all borough magistrates are now appointed by the Crown. The mayor is the returning-officer in parliamentary elections, and in the election of councillors if the borough is not divided into wards. When the borough is not a parliamentary borough, in conjunction with two assessors he acts as the revision court. He is also an *ex officio* member of the watch committee. If he dies or becomes bankrupt while in office, the town clerk must call a meeting of the council to fill up the vacancy. If he is temporarily incapacitated by illness or otherwise, he may appoint a deputy.

We have now discussed the three constituent factors of the council,—namely, the mayor, the aldermen, and the councillors. Directly or indirectly, as we have seen, they are all chosen from and elected by the burgesses at large. The Central Government takes no part or share in their election. In France the maire and his deputy the adjoint are the nominees of the Government, and for the most part constitute very efficient spokes in the municipal council's wheel. Spanish municipalities since 1869 have enjoyed the right of electing their own alcalde, but this apparent liberty of choice is fettered by a provision that he must be able to read and write. In Germany the Crown has a veto on the election of the burgomaster, and his appointment therefore requires the royal sanction.[1] In England happily no such restrictions are necessary, and our boroughs

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enjoy complete independence as regards the appointment of their governing body.

A few words must now be said about the officers of the council. They are the Town Clerk, the Treasurer, and "such other officers as have usually been appointed in the borough, or as the council think necessary."[1] The town clerk holds his office during the pleasure of the council, and his salary is fixed by them. He has the custody of the charters, deeds, records, and documents of the borough, and it is his duty to issue the summonses for the meetings of the council, and to act as secretary to the council at their meetings and otherwise. The treasurer, too, holds office during the pleasure of the council, and his salary is fixed by them. It is his duty to receive and make all payments on behalf of the corporation. All officers appointed by the council must give security for the due execution of their duties, and there are stringent provisions for making them account.

The officers above referred to are the ordinary staff of every borough, but many boroughs have, in addition to their normal functions, wholly or in part the organisation of a county, having their own Commissions of the Peace, and Courts of Quarter Sessions; and this of course involves additional officers.

If a borough has not a separate court of quarter sessions, the council may petition her Majesty in Council to grant one. The petition must specify the grounds of the application, and the salary that the council is willing to pay the judge. The salary for the most part is a nominal one of some £40 or £50. In borough quarter

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essions the justices do not act as judges, but the office f judge must be filled by a barrister of not less than ve years' standing, who is called the Recorder. The ecorder is appointed by the Crown, on the recommendaion of the Home Secretary. He holds office during good ehaviour, is *ex officio* a justice for the borough, and has recedence next after the mayor. The same barrister nay be appointed recorder for two or more boroughs. The recorder may not be an alderman or councillor for he borough, nor may he sit for it in Parliament. In he case of unavoidable absence he may appoint a qualied barrister to act as his deputy for the next ensuing essions.

If the borough has, by prescription, a court of civil urisdiction, the recorder is the judge of that court unless ome local Act otherwise provides. There are eighteen oroughs having civil courts with very various jurisdicions, but in several of these the courts exist only in ame, for the county courts have concurrent jurisdiction nd are preferred by the suitors.

The criminal jurisdiction of the recorder is the same s that of a court of quarter sessions in the county, and he procedure in court is strictly analogous. The maxinum sentence which he can give is one of seven years' enal servitude. On the civil side his jurisdiction is mited, and the Act prohibits him from making or alterng any borough rate or exercising any licensing jurisiction.

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If the council desire the appointment of a Stipendiary Magistrate, they may petition the Home Secretary to appoint one. If appointed, the stipendiary holds office during her Majesty's pleasure. He must be a barrister of seven years' standing, and is paid by yearly salary. He has the powers of two justices acting together. Fifteen boroughs only have stipendiary magistrates.

In those boroughs where the county authorities have no jurisdiction, and which are known as counties of cities or counties of towns, as the case may be, the council must also appoint a Sheriff. The appointment must be made at the quarterly meeting of the council on the 9th November, immediately after the election of the mayor.

Under the Sale of Food and Drugs Act, 1875, the council may be required by the Local Government Board to appoint a public analyst.

Having briefly described the constitution of the council and the officers at its disposal, the duties and powers of the council must next be considered. The council must hold four quarterly meetings every year for the transaction of general business. The mayor may also call a meeting at any time. If the mayor refuses to call a meeting, five members of the council may call it.

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given to them to make over their property and functions to the council.[1] The council has the same powers and duties as regards borough bridges that the justices have in the case of county bridges. The council may purchase land not exceeding five acres for borough buildings, and may build "a town-hall, council-house, justices' room, with or without a police station and cells, or a quarter and petty sessions' house, or an assize courthouse, with or without judges' lodgings, or a polling station, or any other building necessary for any borough purpose." The council are not allowed to sell, or mortgage, or let out on long lease, any of the borough land without the approval of the Treasury. An exception is made in favour of long leases of land for the purpose of working-men's dwellings, under specified regulations. The misapplication of corporate property (more especially for the purpose of any parliamentary election) is severely punished.[2] The maintenance of the police force is confided to a committee of the council called the Watch Committee. The watch committee must include the mayor and such number of the council, not exceeding one-third of the whole, as may be appointed to act on it. The watch committee must appoint "a sufficient number of fit men to be borough constables," and is empowered to make rules for their regulation and guidance. The power of dismissal is also vested in the watch committee. If in any emergency the borough police force is not sufficient, the justices having jurisdiction in the borough may appoint special constables to assist.[3]

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finance.[1] The subject may be considered under the three heads of Expenditure, Loans, and Accounts. All rents, profits, and receipts from corporate property go to a fund called the Borough Fund. All the ordinary expenditure of the corporation is primarily to be made out of this fund. If the fund is more than sufficient to meet the expenditure (a millenial state of things which, it is believed, has yet never been realised), the surplus must be applied, under the direction of the council, "for the public benefit of the inhabitants and the improvement of the borough." If the fund is insufficient, the council must from time to time order a rate, called a Borough Rate, to be made in the borough to make up the deficiency. The council assess the amount to be contributed for each parish. The assessment is usually based on the poor-rate valuation, but a special valuation may be made if necessary. The rate is collected by the overseers—that is to say, they are responsible for its collection. Provision is made for adjusting accounts between the borough and the county, when borough prisoners are sent for trial into the county. The expenses of the police force are in certain cases provided for out of a special rate, called the Watch Rate, instead of out of the borough rate. If on inspection the force is certified to be efficient, the Treasury make a grant in aid amounting to half the pay of the men. The Treasury also contribute towards the cost of criminal prosecutions.

Where expenditure is incurred on works of utility of a more or less permanent character, the necessary funds are usually raised by loan, repayable by instalments and

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The accounts of most local authorities are now audited by the Local Government Board, but boroughs are exempt from this jurisdiction. The audit is conducted by three borough auditors, two elected by the burgesses, called elective auditors, and one appointed by the mayor, called the mayor's auditor. An elective auditor must be qualified to be a councillor, but must not be a member of the council. The mayor's auditor must be a member of the council. The treasurer must make up his accounts half yearly, and within a month of making them up must submit them with the necessary papers and vouchers to the auditors. After the second audit of the financial year the town clerk must make a return to the Local Government Board of the receipts and expenditure of the corporation for the year. The return must be sent within a month of the completion of the audit. It is

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One other point remains to be touched on, and that is the relation of boroughs to the Central Government. As we have seen, the controlling power of the Central Executive is purely negative. It can disallow certain things, such as parting with corporate property or the creation of loans on the security of the rates, but there its power of interference begins and ends. In all other matters a municipality enjoys, within the limits of the law, an unfettered liberty of action.

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CHAPTER VI.

THE COUNTY.

The County—History of the Shire or County—County Officers—The Lord Lieutenant—The Sheriff—The Coroner—The Justices—County Jurisdiction—County Finance.

For certain administrative purposes England is divided into counties. The term "county" is the Norman equivalent of the old Saxon "shire."[1] There is a third synonym, namely, the hybrid word "bailiwick," a term still used in legal phraseology. There are forty counties in England and twelve in Wales. In addition to the counties properly so called, there are, as we have seen, eighteen towns called "counties of cities" and "counties of towns" outside the jurisdiction of the counties within which they are situate, and which, for many purposes—chiefly in relation to the administration of justice—have themselves the organisation of a county. For parliamentary elections the counties, for the most part, have been cut up into divisions, and for electoral purposes the divisions so created are in effect distinct counties. The area of the county has no relation to any other local government area except the obsolete hundred. The boundaries of the county are intersected

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by the boundaries of boroughs, sanitary districts, highway districts, unions, parishes, school boards, and burial boards. Counties differ much both in size and population. Rutland contains 94,889 acres and 21,000 inhabitants. Yorkshire contains 3,882,851 acres, and has a population of 2,886,000 persons. Formerly there were many liberties exempt from county jurisdiction, but under an Act of 1850 nearly all of them have now been merged and obliterated in the counties within which they were situated. Ely and the Cinque Ports, however, for many purposes still retain their old exemptions.

The division of England into shires dates as far back, at any rate, as the reign of King Edgar, though the boundaries of some of the northern counties seem to have been altered since the Conquest. In Saxon times the government of the shires was representative. The shire moot, the governing assembly, was composed of all lords of lands, and of the reeve and four selected men from each township. The presiding officers were the ealdorman, a royal nominee, and the shire-reeve or sheriff, an elected officer, who it seems generally held office for life. The functions of the shire moot or folk moot were at once administrative, legislative, and judicial. The suitors—that is, all who attended—were the judges. The power of the Central Government made itself felt but little, and the various shires were almost as independent as the different states in the United States. In early Norman times much of this independence was still preserved. The shire moot had become the county court. The royal power, however, was making itself more felt. Royal judges, the justices in eyre, made their circuits through the land, and tried the more important

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criminal and civil cases; but they tried these cases in the county assembly. The office of ealdorman was disappearing, and the chief officer was the sheriff or vicecomes, who was no longer elected, but was a nominee of the Crown and the farmer of the royal taxes, holding office for a single year only. The county court of the thirteenth century is thus described by Professor Stubbs:[1] —"In its full session,—that is, as it attended the itinerant justices of the king on their visitations,—it contained the archbishops, bishops, abbots, priors, earls, barons, knights, and freeholders, and from each township four men and the reeve, and from each borough twelve burghers. It was still the folk moot, the general assembly of the people. It contained thus all the elements of a local parliament—all the members of the body politic in as full representation as the Three Estates afterwards enjoyed in Parliament. The county court sat once a month, but the monthly sessions were only attended by those who had special business. For the holding of a full county court for extraordinary business a special summons was always issued. In the county courts, and under the presidency of the sheriff, all the business of the shire was transacted, and the act of the county court was the act of the shire in matters military, judicial, and fiscal, in the details of police management, and in questions—when such questions arose—connected with the general administration of the county." From this time onwards the history of the county court is a history of decay. Its criminal jurisdiction has been taken from it and transferred either to royal commissioners—that is, the judges on circuit—or to the county justices, who are nominees of the Crown.

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The judicial functions of the suitors are now represented by the jury system, which has slowly developed; and the right of the grand jury to make presentments on matters of local interest or importance is perhaps a survival of the old right of the county to approach the Crown in its corporate capacity. The civil jurisdiction of the county court has been transferred either to the High Court or to the new statutory county courts, established in 1846, whose circuits have no relation to county boundaries, and whose judges are barristers appointed by the Crown. The ancient county court presided over by the sheriff has now but few functions left. For parliamentary elections the counties have been subdivided into divisions, which, for electoral purposes, are distinct counties, and the freehold voters have been swamped by the new £12 occupiers. The county coroner is still elected in the county court; and if any one were outlawed his outlawry must be proclaimed in the county court. In theory it is still the duty of the sheriff to proclaim in the county court all new Acts passed by the Legislature. But there its functions end, and the ancient county court is but a pale shadow of its former self. In theory, in case of any sudden disturbance, the sheriff might still command all the men of the county to attend him to quell it; but practically the lord-lieutenant and the justices are reckoned the responsible guardians of public tranquillity. The *posse comitatus*, the power of the county, headed by the sheriff, exists only in name. All military tenures of land were abolished in the seventeenth century, and the modern county militia, established in the eighteenth century, has no connection with the old assembly of the county in arms, called together by the royal commission

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of array. The existing judicial and police functions of the county are dealt with in another volume of this series.[1] It is only its administrative powers and duties that concern us here. The present administrative functions of the county have been created by a series of statutes ranging from Tudor times down to the present day. The body selected for the exercise of those functions is not the old county court, but the justices of the peace for the county assembled either in quarter or special sessions. The counties are subdivided into petty sessional divisions, and the special sessions are merely petty sessions called and meeting for some special purpose. The civil organisation of the modern county consists of the Lord-Lieutenant and Custos Rotulorum, the Justices and Clerk of the Peace, the Sheriff, the Coroner, the County Analyst, the County Surveyor, and the County Police.

The office of Lord-Lieutenant dates from the time of Henry VIII. He holds office under a special commission from the Crown, and is usually a peer or other large landowner. His office, says Hallam,[2] "may be considered as a revival of the ancient local earldom, and it certainly took away from the sheriff a great part of the dignity and importance which he had acquired since the discontinuance of that office. Yet the lord-lieutenant has so peculiarly military an authority that it does not in any degree control the civil power of the sheriff as the executive minister of the law." By an Act of 1871, however, the militia jurisdiction of the lord-lieutenant has been taken from him and revested in the Crown.

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The lord-lieutenant usually holds also the office of *custos rotulorum*, or keeper of the records. As such he is the principal justice of the county, and it devolves on him to appoint the clerk of the peace, who acts as clerk to the sessions. As connected with county administration, his main function is the recommendation of qualified persons for the office of justice of the peace. It is said that party politics are not always disregarded in considering the qualifications of persons anxious for the commission of the peace.

The office of Sheriff dates back to the time when the shires themselves were formed. As we have seen, the sheriff was formerly an elective officer; but by a statute of Edward III.[1] it is provided that "no sheriff shall tarry in his bailiwick over one year; and then another convenient shall be ordained in his place that hath land sufficient in his bailiwick by the chancellor, treasurer, and chief baron of the Exchequer, taking unto them the chief justice of the one bench and the other if they be present; and that shall be done yearly on the morrow of All Souls at the Exchequer." In accordance with this statute, the judges of the High Court and the officers of the Exchequer still meet annually and "prick" for sheriffs. The ceremony is called pricking, because a list of qualified persons is laid before the judges, and a pin prick is put opposite the names of those selected. The sheriff is an unpaid officer, and he is liable to a heavy fine if he refuses to serve. The relations of the sheriff to the ancient county court have already been discussed. His duties as returning-officer at parliamentary elections are not within the scope of this volume to describe. For-

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The office of Coroner is a very ancient one, dating back, at any rate, to the reign of King Alfred. It is regulated partly by common law, partly by a series of forty-nine statutes, beginning in 1275, and ending with an Act of 1882. The name is said to be derived *à coronâ*, because the coroner was originally a royal officer; but for many centuries the county coroners have been elective officers. The right of the counties to elect their own coroners is confirmed by the statute 3 Ed. I. c. 10.[1] As we have seen, municipal boroughs with quarter

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sessions elect their own coroners. There are also certain franchises and liberties which have coroners of their own, and within whose precincts the county coroner cannot act. In such places the coroner is usually appointed by the lord of the manor, but in one franchise in Cheshire the office is said to go with an hereditary horn. In a manor in Essex the tenants appoint. In another franchise the Ecclesiastical Commissioners appoint. The number of these franchise-coroners, as they are called, is said to be fifty-five. There are 175 county coroners acting for counties or divisions of counties. They are very unequally distributed over the country. Middlesex has five coroners. The little county of Huntingdon has also five; while Dorsetshire has eleven.[1] When the office of county coroner falls vacant a writ *de coronatore eligendo* issues from the Petty Bag Office, commanding the sheriff to hold an election in full county court. At the election every freeholder of the county, or division of the county for which the election is held, is entitled to vote. Any person claiming to vote may be required to declare his qualification on oath. Although the office is judicial in its nature, no professional qualification is required. The only requisite is that the candidate should possess some freehold interest in the county. A share in a freehold grave has been held sufficient. Deservedly or undeservedly, from the time of Shakspeare downwards, crowner's quest law has not been held in high estimation. The elections are often hotly contested, and as much as £10,000 or £12,000 is said to be sometimes expended on a single election. By a recent Act it is provided that the poll is not to remain open for more than one day. A

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It was formerly the duty of the coroner to hold inquisitions concerning wrecks, treasure trove, and deodands, but this part of his jurisdiction has now become obsolete. It has only lately been decided that he has no longer power to inquire into incendiary fires. Having regard to recent conflagrations, it seems a pity that this ancient jurisdiction is not revived in some form or another. The main function of the coroner is to hold an inquest, with a jury, over the body of any person who has been killed, or who has died in prison, or who has died suddenly, if the cause of death be unknown. The inquisition must be held *super visum corporis*; that is to say, the body must be viewed both by the coroner and by the jury. The jury, which must consist of at least twelve persons, are sworn by the coroner, and are then charged to inquire how the deceased came by his death. Witnesses are examined on oath, and the coroner has power to order a post mortem examination of the body,

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The office of Justice of the Peace dates from the statute 34 Ed. III. c. 1. There is no limit to the number of justices which may be appointed in any county. A justice is appointed for the whole county; but, except in quarter sessions, he only acts in practice in the petty sessional division in which he resides. His judicial functions, though defined and limited by statute, depend ultimately on the terms of his commission. The commission now is substantially the same in form as the commission which was settled by the judges in the time of Queen Elizabeth. The administrative functions of the justices have been conferred on them by a series of statutes, and with these functions alone the present volume is concerned.[1] Justices are appointed by the Crown on the recommendation of the lord-lieutenant. They hold office for life, but may be removed for misconduct by the Lord Chancellor. The qualification is the enjoyment of an estate in possession of £100 a year,

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or a reversion in one of not less than £300 a year, or assessment to the Inhabited House Duty at not less than £100 a year. In the case of county court judges the property qualification is dispensed with. The justices are unpaid, and they elect their own chairman.

The most important duty of the justices is the maintenance of the county police. Subject to confirmation by the Home Secretary, the Quarter Sessions fix the number of men and officers for the county. They appoint the chief constable, in whom are vested all the powers of the old high constables of the hundreds. The chief constable appoints the superintendents, sergeants, and men. The Treasury pays one half the cost of the pay and clothing of the police force. The cost of the county police in 1880 was about £1,000,000. The expenses are defrayed out of a special police rate, which is for the most part assessed and levied like the county rate. Provision is made for contributing boroughs and liberties, also for special districts requiring extra police. As we have already seen, the justices in quarter sessions are entrusted with the duty of forming highway districts. Under the Act of 1878 special powers are given to them to coerce defaulting highway boards who have neglected to maintain their roads in proper repair. They also hear and decide appeals from union assessment-committees. The maintenance of county bridges and shire halls specially constitutes another of their duties. Prisons have been removed from the control of the local authorities, but they are still subject to inspection by committees of visiting justices. The maintenance and management of pauper lunatic asylums is also a matter for the justices. The acting lunacy authority is

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a "committee of visitors" appointed annually by the quarter sessions out of their own number. A committee of the justices is also the local authority for the enforcement of the Contagious Diseases (Animals) Acts. The Privy Council exercises a general control over the working of the Acts. The quarter sessions also appoint the county analyst under the Sale of Food and Drugs Acts, and paid Inspectors of weights and measures under an Act of 1835. In Petty Sessions the justices appoint the overseers, and exercise their licensing jurisdiction. The laws relating to the sale of intoxicating liquors are exceedingly complicated, and the subject from every point of view is a thorny one. Music and dancing licences and theatres are also under the control of the justices.

The general expenses of the county are defrayed out of the county rate. "The county rate," says Mr. R. S. Wright, "is an assessment not on individual properties, but on the several parishes in the county. A committee of quarter sessions ascertains the total of the net rateable value of each parish, and apportions the whole required amount accordingly. Precepts for the amount required from a parish are sent to the guardians of the union in which the parish is included. The guardians pay the amount to the county treasurer, and recover it by order from the overseers of the parish. The overseers raise it in the parish by poor rates."[1] The told amount of county expenditure in 1880 was rather more than £2,750,000—that is to say, about 5 per cent of the total local outlay. The Treasury subventions came to rather more than £500,000, so that rather more than £2,000,000 had to be raised out of county rates.

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a "committee of visitors" appointed annually by the quarter sessions out of their own number. A committee of the justices is also the local authority for the enforcement of the Contagious Diseases (Animals) Acts. The Privy Council exercises a general control over the working of the Acts. The quarter sessions also appoint the county analyst under the Sale of Food and Drugs Acts, and paid Inspectors of weights and measures under an Act of 1835. In Petty Sessions the justices appoint the overseers, and exercise their licensing jurisdiction. The laws relating to the sale of intoxicating liquors are exceedingly complicated, and the subject from every point of view is a thorny one. Music and dancing licences and theatres are also under the control of the justices.

The general expenses of the county are defrayed out of the county rate. "The county rate," says Mr. R. S. Wright, "is an assessment not on individual properties, but on the several parishes in the county. A committee of quarter sessions ascertains the total of the net rateable value of each parish, and apportions the whole required amount accordingly. Precepts for the amount required from a parish are sent to the guardians of the union in which the parish is included. The guardians pay the amount to the county treasurer, and recover it by order from the overseers of the parish. The overseers raise it in the parish by poor rates."[1] The told amount of county expenditure in 1880 was rather more than £2,750,000—that is to say, about 5 per cent of the total local outlay. The Treasury subventions came to rather more than £500,000, so that rather more than £2,000,000 had to be raised out of county rates.

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CHAPTER VII.

THE SANITARY DISTRICTS.

Sanitary Districts—Necessity and Province of Sanitary Legislation—History of Sanitary Legislation—Urban Sanitary Authorities—Local Boards—Rural Sanitary Districts and Authorities—Port Sanitary Authorities.

FOR sanitary purposes, using the term in its widest sense, the whole of England, with the exception of the Metropolis, is divided into Sanitary Districts. A sanitary district is either rural or urban. The boundaries of the poor-law unions are the boundaries of the rural sanitary districts, and the guardians are the rural sanitary authority. The urban sanitary districts are carved out of the rural districts according to the exigencies of population. The urban sanitary authority may be either the town council of a municipal borough, the improvement commissioners of an Improvement Act district, or a local board. Take Kingston Union as an example: it contains one municipal borough, one Improvement Act district, and six local board districts, dotted about in various parts of its area. Every part of the union that is not included in one of the urban districts is under the sanitary jurisdiction of the guardians. Thus every house is under either an urban or a rural sanitary

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authority. There is no connection between the boundaries of an urban sanitary district and parish boundaries or any other area of local government. The total number of urban sanitary districts is 1006; and the total urban population is 17,500,000.

This division of the land dates from 1872. Systematic sanitary legislation in England has had but a short history—in fact, it may be said to begin with the Public Health Act of 1848. The reason is not far to seek. In the first place, owing to the pressure of population, and the rapid growth of large towns, sanitary legislation has of late years become much more urgent. In the second place, sanitary science is yet in its infancy; its laws are still empirical, and it is only quite recently that they have been recognised as laws at all. An epidemic disease is no longer looked upon as a shower of darts from some angry Apollo. It is known to be the consequence of the neglect of sanitary precautions, and the violation of sanitary laws. Of the intimate nature and causes of infectious and contagious diseases, however, we as yet know nothing for certain. Some would trace all communicable disease to a living germ or *contagium vivum;* others, like Dr. Richardson, with his glandular theory, see in dead matter the *teterrima causa* of such maladies.[1] This much is sure—that minute material particles given off from the bodies of the sick impinge upon the bodies of the sound, and set up therein a similar disease, which can in like manner be further disseminated. Experience

[1] In the case of one communicable disease (anthrax or splenic fever), the truth of the germ theory seems to have been established by the researches of Koch and Pasteur. The specific bacteria found by them appear to be the cause and not merely the concomitants of the malady; but what is one among so many?

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has also taught us that by isolating the sick and carefully disinfecting their clothing, the spread of the disease can be effectually arrested. Science is divided on the question whether the ordinary infectious and contagious diseases, such as scarlet and enteric fever, or diphtheria, can originate *de novo* and arise spontaneously, or whether they must in all cases be communicated either mediately or immediately from the sick to the healthy. We, however, know for certain that infection is the ordinary cause of such diseases, and that if infection could be efficiently arrested, sporadic cases would be of comparatively little moment. We further know that pure air and water are the essential conditions of health, while polluted air and water are the sure forerunners of zymotic disease. Sewer gas may or may not be the cause of typhoid fever and diphtheria, but, if not in itself the cause, it is clearly an excellent vehicle for the poisons of those diseases. It is therefore essential to prevent the escape of sewer gas into our houses. The poison of typhoid fever seems capable of almost unlimited diffusion in water. A year or two ago there occurred at Caterham an outbreak of enteric fever, attacking some hundred persons and causing many deaths. A local inquiry was ordered by the Local Government Board. Dr. Thorne-Thorne's admirable investigation conclusively showed that the outbreak was caused by the accidental pollution of the water supply from a single case. Milk has been shown to have an extraordinary power of conveying the poisons of scarlet fever and diphtheria. Decaying animal and vegetable matter and the overcrowding of human beings are eminent provocatives of disease. Thus, while our know-

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ledge of actual causes is very incomplete, we know enough of the conditions of health and disease to form a series of useful working hypotheses on which to legislate and take action. The public health legislation of the last few years has almost stamped out typhus fever, a disease which formerly exacted an annual tribute of some thousand lives. Compulsory vaccination has scotched, though it has not killed, smallpox,[1] and under recent sanitary legislation the general health of the population has improved, and the expectation of life has perceptibly increased. For the years 1841-51 the death-rate was 22·23 per thousand, while the death-rate for the years 1871-81 was 21·27 per thousand. This lower death-rate implies the survival of 300,000 persons who according to the previous rate of mortality would have died.[2] Much, however, remains yet to be done. The individual is comparatively helpless. It is only the strong arm of the law and concerted action that can deal effectively with questions of public health. In 1881 the number of deaths from scarlet fever was 16,000, while 8000 persons died from enteric fever. Smallpox claimed 5000 victims. So much for the killed; but we have no list of the maimed and

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A nuisance injurious to health is indictable at common law. For instance, if a man accumulates filth on his land so as to cause a nuisance to his neighbours, he may be prosecuted criminally. The now obsolete Court's Leet seems to have exercised some control in sanitary matters. It may be noted that the court rolls of Stratford-on-Avon show that in 1552 Shakspeare's father was fined for depositing filth in the public street in violation of the bye-laws of the manor, and again in 1558 for not keeping his gutter clean. But the function of common law begins and ends with the punishment of individuals. It knows nothing of prevention or cure. It has no machinery for dealing with those insanitary conditions which the massing of human beings together in cities and towns necessarily creates, and which the individual is powerless to cope with. Here the aid of the Legis-

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As early as the reign of George II. the more populous and wealthy towns began to seek a remedy in their individual cases by applying to Parliament for special legislation; and from that date down to the present time very numerous special Acts have been passed conferring on populous places powers of local government, pointed more directly in the earlier instances at the paving, lighting, cleansing, and improving the districts embraced in them, but recognising in all later instances the importance of sanitary regulations, and affecting to make provision accordingly.

The Lighting and Watching Act, 1833, was a step towards more general legislation. It provided for lighting and watching in parishes; enabled the ratepayers to appoint inspectors, who might contract for works; and imposed penalties for contaminating water by gas. The

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In 1847 the Towns Improvement Clauses Act, the Towns Police Clauses Act, the Water-works Clauses Act, the Gasworks Clauses Act, with several similar Acts, were passed for the purpose of consolidating and generalising the provisions usually required in local Acts for various public purposes. Their object is to supply model clauses, which can be adopted by reference into local Acts. With a few exceptions their provisions have been adopted into all subsequent local legislation. There are still about fifty Improvement Act districts.

In 1848 was passed the first great and comprehensive measure—a measure which may be called the foundation-stone of our national sanitary legislation. The Public Health Act of 1848 did not apply to the Metropolis, but was intended mainly for other large towns and populous places. It created a General Board of Health, the members of which were appointed by the Crown, and they were empowered to appoint inspectors to see that the provisions of the Act were carried out. The General Board of Health were empowered to create (through the machinery of an Order in Council) local boards of health. In places where the rate of mortality was exceptionally high the Board of Health might act of its own motion; but in ordinary cases it could only act on the petition of the ratepayers. In municipal boroughs the Town Council was constituted the local board. In other places the board was elected by the ratepayers. Certain

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specified powers were conferred on all local boards, and the General Board of Health were authorised to vary local Acts by provisional order.[1] In particular, local boards were empowered to construct and manage sewers, drains, wells, water and gas-works, deposits of refuse, closets, and slaughter-houses; to regulate offensive trades, to remove nuisances, to protect water-works from pollution, to pave and regulate streets, to regulate dwellings and common lodging-houses, to provide burial and recreation grounds, and to supply public baths with water. Between 1848 and 1875 some thirty Acts were passed amending or extending the Act of 1848, but three only need be specially referred to. The Local Government Act of 1858 enabled a local board to be created by the resolution of the ratepayers of any place having a defined boundary without the intervention of the Board of Health. That Board was allowed to expire, and its remaining functions were divided between the Home Office and the Privy Council. In 1871 the public health powers of the Home Office and Privy Council were transferred to the newly-created Local Government Board. The Public Health Act of 1872 divided the country into urban and rural sanitary districts, and constituted the guardians the rural sanitary authority. Up to that date the guardians had been the authority to exercise in rural places the powers under the various Acts relating to the removal of nuisances. The vestries, on the other hand, had been the rural sewer authorities, and as such had had various other sanitary powers conferred upon them.

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I. *The Urban Sanitary District.*

We must now proceed to describe the constitution, powers, and duties of the existing sanitary authorities as determined by that code of 1875. We need not consider separately the cases where the town council of a borough, or the Improvement Commissioners of an Improvement Act District constitute the Urban Sanitary Authority. The constitution of the town council is regulated by the Municipal Corporations Act, 1882, and that of the Improvement Commissioners by their special Acts; but as regards their powers and duties, they have, in addition to their own proper jurisdiction, all the powers and duties of an ordinary local board.[1] With this explanation we may at once proceed to deal with the Local Board as the typical urban sanitary authority.

A local board, when constituted, is a corporation having a corporate name, under which it may sue and be sued, a perpetual succession and common seal, and power to hold lands in mortmain. It may, under certain cir-

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cumstances, be dissolved by the Local Government Board by Provisional Order. The area under the jurisdiction of a local board may likewise be altered by Provisional Order.

A local board may be created in two ways:—First, the Local Government Board may, by Provisional Order, declare that any rural district, or any part thereof, shall be constituted a local government district; and thereupon the district becomes subject to a local board, to be elected as prescribed by the Act.[1] Secondly, the owners and ratepayers of any district having a defined boundary may, under certain regulations, pass a resolution declaring it expedient that the district should be constituted a local government district. The Local Government Board may then, by a simple departmental order, constitute the district an urban sanitary district, and order the election of a local board.

When a new urban district is thus constituted, the Local Government Board defines its area, decides whether or no it shall be divided into wards, determines the number of members who shall constitute the local board, and issues regulations for the first election.

After the local government has been started by the central authority, the elections are regulated by the Act.

The persons entitled to vote are owners and ratepayers. In order that non-resident owners, whose property of course may be very much affected by the action of the board, may have their say, it is provided that owners may vote by proxy. An owner claiming to vote as such, or desiring to appoint a proxy, must send in a claim; and a register of owners and proxies is directed

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to be kept. If an owner be resident, he is entitled to vote both as owner and as occupying ratepayer. The system of plural voting prevails. Each owner and ratepayer has from one to six votes, according to the rateable value of his property. A resident owner may vote both as owner and ratepayer, so that, if his property be sufficient, he may have as many as twelve votes.[1] A corporation, though it pays rates, has no vote.

In order to be eligible as a member of a local board the candidate must reside in or within seven miles of the district, and must possess the required property qualification. The qualification varies according to the population of the district. If the district contains less than 20,000 inhabitants, the property qualification is £500, or a ratal of £15. If the district contains more than 20,000 inhabitants, the property qualification is £1000, or a ratal of £30. Bankruptcy is a disqualification.

Members of the local board hold office for three years, one-third going out every year by rotation. Retiring members are re-eligible. The members of the board elect their own chairman, and are unpaid.

The chairman of the board is the returning-officer for elections. He must so make his arrangements that the election may be completed before the 15th of April in each year. He also acts as revising-officer for the purpose of revising the register of owners and proxies.

Candidates must be nominated in writing. If there

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The chairman of the board is the returning-officer for elections. He must so make his arrangements that the election may be completed before the 15th of April in each year. He also acts as revising-officer for the purpose of revising the register of owners and proxies.

Candidates must be nominated in writing. If there

[1] The scale is—Rateable value under £50, one vote; over £50 but under £100, two votes; over £100 but under £150, three votes; over £150 but under £200, four votes; over £200 but under £250, five votes; for £250 and upwards, six votes.

are more candidates than vacancies, the contest is conducted by voting papers. Voting papers in the prescribed form are left at the address in the district of each person entitled to vote. Three days afterwards the appointed persons call for the voting papers and deliver them to the returning-officer, who counts them up and declares the result. The candidates may be present at the counting. There is no special machinery for deciding disputes, so that the only way of impeaching the result of an election is by recourse to a court of law. The returning-officer is entitled to his expenses, and a reasonable sum may be voted to him as remuneration for his trouble.

If a casual vacancy occurs it is filled up by the remaining members of the board by co-optation.

The board has power to provide itself with offices, and to appoint and pay clerks and other necessary officers. It must have a clerk, a surveyor, and a treasurer.

The sanitary officers of the board are two in number—namely, the Medical Officer of Health and the Inspector of Nuisances.

The medical officer of health, who must be a qualified medical practitioner, is the sanitary adviser of the board. His duty is to attend their meetings when required, to advise them as to their sanitary bye-laws, to keep them informed as to the health of their district, and to bring to their attention anything defective in their arrangements, or any threatenings of an approaching epidemic. He supervises the proceedings of the inspector, or inspectors of nuisances; and he may also himself exercise the powers of an inspector of nuisances. It is further

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his duty to make an annual report on the health and sanitary conditions of his district to the Local Government Board, and to report specially in the case of any epidemic outbreak. If his reports are properly made a portion of his salary may be repaid to the local board out of monies voted by Parliament.

The inspector of nuisances is appointed and paid by the board. It is his duty to search out and report upon all nuisances in the district prejudicial to health, and, under instructions, to take proceedings for their abatement. He also reports to the medical officer of health. A new and important function is that of procuring samples of food for analysis by the public analyst. It may be noted that private individuals, on payment of a small fee, are entitled to have any drug or article of food analysed in like manner.

The functions of the board may be divided into—(*a*) legislative and (*b*) administrative functions.

The power to make bye-laws would probably attach to a local board by virtue of its being a territorial corporation,[1] but the Act has specially provided for the point. A local board may make bye-laws for the purpose of carrying out the provisions of the Public Health

[1] "Where it is necessary for the accomplishment of the objects of their incorporation, a body corporate has as an incident to it the power of making bye-laws, and of enforcing them by penalties; and such bye-laws, in the case of municipal corporations, and of other corporations entrusted with local, popular, or territorial government, will bind both members and strangers, and not members of the corporation only." . . . . "A bye-law is a rule obligatory on a body of persons, or over a particular district, not being at variance with the general laws of the realm, and being reasonable and adapted to the purposes of the corporation. . . . It must not be retrospective."—*Grant on Corporations*, p. 76.

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and Nuisance Removal Acts, and the bye-laws may impose penalties not exceeding £5 for offences against them. In the case of continuing offences there is power to impose further penalties not exceeding 40s. a day. All bye-laws must be made under the seal of the board, and must be advertised and published in the prescribed manner. They must also, before coming into force, be submitted to the Local Government Board for its approval, when they may be either confirmed or disallowed.

The administrative functions of a local board are either sanitary or general. In the exercise of its sanitary powers it may purchase and construct sewers, and may provide a map of its sewer system. The sewers of the district vest in the board. It must keep its sewers so cleansed and ventilated as not to be a nuisance. It has power to make owners of houses drain into its sewers if the houses be within 100 feet of the sewer; and no new house may be built in the district without being properly drained to the satisfaction of the surveyor. Houses more than 100 feet from the sewer may drain into cesspools. There are special powers to enable local boards to start and maintain works for disinfecting sewage, or otherwise disposing of it, so as not to create a nuisance. By leave of the Local Government Board adjoining urban districts may unite and work together in sewage schemes. Local boards may either undertake themselves, or contract for, the scavenging and cleaning of the houses and streets in their district. If in any house there has been infectious disease, or if any dwelling is in a filthy condition, the local board may, on the certificate of their medical officer of health, require it to

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be whitewashed and otherwise purified. Among pleasures expressly forbidden to dwellers in urban districts is the "keeping of any swine or pig-stye in any dwelling-house;" but the provisions of the Act may be summed up by saying that it is made the duty of every householder to keep his house and premises wholesome and clean, while it is the duty of the board to see that he does so.

Where a district is not already supplied with water by some water company with statutory powers, the local board may undertake the water supply. In such case the board may either supply water by measure, charging according to quantity, or may recoup itself by a water-rate. If the surveyor reports that any house has not a proper water supply, the board may compel the householder to take a supply from them. There is also power to the board to purchase or lease the works of existing water companies. In connection with water supply the local board is bound also to supply fire-plugs.

The local board has ample powers for the regulation of cellar-dwellings and common lodging-houses, and the Local Government Board may, under certain conditions, empower the local board to make bye-laws regulating any houses let in lodgings although not common lodging-houses. The jurisdiction of the board to prevent and abate nuisances is extensive. It further has power to prevent offensive or noxious trades, such as soap-boiling or tallow-melting, from being established without its consent, and to regulate them when allowed.

The powers of sanitary authorities for dealing with infectious diseases are not so large as they ought to be, and those that they have are not sufficiently used. A person who, while suffering from an infectious disease,

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The powers of sanitary authorities for dealing with infectious diseases are not so large as they ought to be, and those that they have are not sufficiently used. A person who, while suffering from an infectious disease,

wilfully exposes himself in the streets or in any other public place, or who gets into a public conveyance without warning the driver, is liable to a penalty not exceeding £5. Practically, proceedings are never taken to enforce this provision, yet such a person probably is as dangerous to his neighbours as if he were to shut his eyes and then fire off a pistol at random in the street. The inclination at present is to pity rather than to blame him. If the infectious particles that he discharges only made a noise, or could be rendered visible, his conduct would be viewed in a very different light. The local board may provide mortuaries, but there is no power to order the body of a person who has died of an infectious disease to be removed to the mortuary, unless there are other persons actually living or sleeping in the same room, and even then the procedure is complicated and requires the intervention of a justice of the peace. Surely in no case ought the body of a person who dies of an infectious disease to be kept in a dwelling-house more than a few hours. As it is the blinds are pulled down, the windows closed, and all the surroundings predispose towards a spread of the disease. The local board may order infected clothing to be burned, making compensation to the owners. It may also order a house to be disinfected; but these powers are not of much use without systematic provision for the notification of infectious disease to the local authority. In twenty-three towns clauses have been introduced into their special Acts, making notification of infectious disease compulsory on the medical man in attendance. The plan seems to work well. In places where it has not been tried medical men are said to be opposed to the duty of notifying

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being cast on the doctor. They urge that it should be made the duty of the householder. But as it is the doctor and not the householder who has to decide whether the patient is suffering from nettle rash or scarlet fever, from measles or from smallpox, the doctor seems to the lay mind to be the proper person to notify. Printed forms should of course be provided, and he should be entitled to a small fee to cover postage and to remunerate him for his trouble. Again, where the public are invited into houses where there is a case of infectious disease, it ought to be made compulsory to give a warning. Take the case of a shop. If the householder chooses to keep a case of infectious disease—say smallpox—in a dwelling-house communicating with the shop, ought he not to be compelled to put up a warning, so that his customers might come in or stay out with their eyes open and at their own risk? The case of a private house of course stands on a different footing from a house into which the public are invited to enter. We know that scarlet fever can infect milk to an almost unlimited extent. If a milkman chooses to keep a case of scarlet fever in his house instead of sending it to hospital, ought he not temporarily to be stopped from supplying milk which may spread the disease right and left? The local board has power to construct and maintain hospitals, and two or more local authorities may have a joint hospital. There is also power to recover expenses from patients who are not paupers; but this latter provision is believed to be a dead letter. Every inducement should be held out to induce persons of the better classes to avail themselves of hospital accommodation when suffering from infectious disease. A well-to-do man is just as infectious

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as a poor man, and it is only the very rich who can afford to take such precautions as render the spread of infection impossible. What seems requisite is the adoption by local authorities of the system which works so well at the London Fever Hospital. The rule there is that every patient must contribute something towards his expenses; but the committee, in special cases, have power to remit or reduce the fee. Many a man who in sickness does not wish to be dependent on charity is able and willing to pay something, and thus preserve his self-respect, but he cannot afford the whole cost of an infectious illness. A person who, under these circumstances, goes into a hospital benefits two parties—namely, himself and the public. The patient gets the benefit of hospital appliances and nursing; the public is protected from the risk of infection. It is only fair that each party benefited should contribute towards the expenses. The London Fever Hospital also provides private rooms for patients who are willing to pay a fee which covers the cost of the case. It receives about 1000 cases a year, but there are certainly not less than 25,000 cases of scarlet fever alone in London every year. The system, therefore, must be largely extended before much impression can be made on the general prevalence of infectious disease. Private enterprise can do but little, but local authorities might do much. An institution which rests on so sound a principle as helping those who are trying to help themselves does not appeal strongly to the benevolent public, who greatly prefer sentimental and indiscriminate charity.

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Turning from the sanitary to the more general functions of urban authorities, we find that the local board

has the management of all streets and highways within its district. It is *ex officio* the surveyor of highways, and may exercise any powers which a vestry could exercise outside the district. It may make new roads and regulate the width and paving of new streets, and may make regulations to which all new buildings or houses in the district must conform. It may name or rename and renumber streets; it may put up clocks in public places; it may provide public walks and recreation grounds, and may establish markets, charging stallage rents to the vendors who use them.

If there be no gas company in the place, it may contract for or itself undertake the supply of gas both for streets and private houses. It may also buy out existing gas companies. It may make rules for the prevention of fires and the regulation of hackney carriages. It may establish cemeteries, and make bye-laws for their management.

All these miscellaneous functions involve of course very considerable expenditure. The expenditure is of two kinds—namely, expenditure benefiting particular inhabitants, and expenditure benefiting the inhabitants of the district generally. To meet these two classes of expenditure two different methods are provided. The expenses of works of the first class,—as, for instance, the expenses of putting house drains in order, or connecting them with the urban authorities' sewers, or paving a private street,—are directed to be borne by the owners or householders themselves. If the board does the work it may recover the money expended from the householder. Where the outlay is heavy, the board for the most part has a discretion to declare the expenditure to

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be private-improvement expenses. In such case the repayment by the householder may be spread over a series of years not exceeding thirty, and the money may be collected by means of what is called a private-improvement rate, leviable on the particular persons benefited.

Expenditure which relates to the inhabitants generally is met out of the general-district fund. Into that fund go the receipts from market-tolls, loans, and the general-district rates. The general-district rate must be made by the board under their common seal. It may be made from time to time as occasion requires, and "may be made and levied either prospectively, in order to raise money for the payment of future charges and expenses, or retrospectively, in order to raise money for the payment of charges and expenses incurred at any time within six months before the making of the rate." The district rate is assessable on all property assessable to the poor rate, and is to be assessed "on the full net annual value of such property."[1] The poor-law valuation is usually taken as the basis. Occupiers not owners are the persons generally rated; but the local board may, if it choose, rate the owner instead of the occupier where the annual value of the premises does not exceed £10, and the premises are let out to weekly or monthly tenants. The rates may be inspected by any person interested, and before making a rate it is the duty of the local board to prepare an estimate showing the total amount required, the value of the assessable property, and the amount of rate per pound. There are some complicated provisions about highway rates in certain circum-

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One other point must be adverted to—namely, the powers entrusted to the Local Government Board of forcing local authorities to do their duty. If a local authority makes default in any matter relating to the sewering or water supply of the district, the Board, after due inquiry, may order the local authority to execute the necessary works within a specified time. If the order is not obeyed, it may either be enforced by a writ of Mandamus, or the Board may appoint persons to do the work and recover the expenses from the local authority.

II. *The Rural Sanitary Authority.*

The rural sanitary district, as we have seen, consists of all that part of the area of a union which is not included in any urban district. The guardians acting for the parishes situate in that area are the Rural Sanitary

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Authority. If a parish is partly in an urban, partly in a rural district, the Local Government Board decides whether its guardians shall act in the rural authority or not. The total number of rural sanitary districts is 577, and, according to the Census Returns of 1881, they contain a population of about 8,500,000.

In rural places sanitary problems are for the most part less pressing than in thickly-populated towns; consequently the normal powers of the rural authority are much less extensive than those of its urban kinsmen. Speaking broadly, a rural authority has much the same powers as an urban authority in respect of sewerage and drainage, water-supply, and the inspection and abatement of nuisances. Its powers as regards water-supply have been largely increased by the Public Health Act of 1878. It has not the powers of an urban authority in respect of lighting, highways, streets, public baths, or recreation grounds. The Local Government Board may, however, confer on a rural authority all or any of the powers of an urban authority. The sanitary officers in a rural district are the same as in an urban district.

The system of taxation, as described by Mr. R. S. Wright, is as follows:—"Each parish is *prima facie* a separate contributory place chargeable with its own special expenses (*e.g.* water-supply or other local work). General expenses (*e.g.* salary of sanitary officers) are defrayed out of a common fund payable out of the poor rates in proportion to the parish valuation-lists. Special expenses are payable by the parish for which they are incurred, and are also payable out of a special rate, which is a poor rate, but is levied in the particular parish on the same basis as that of the general district rate of an

Authority. If a parish is partly in an urban, partly in a rural district, the Local Government Board decides whether its guardians shall act in the rural authority or not. The total number of rural sanitary districts is 577, and, according to the Census Returns of 1881, they contain a population of about 8,500,000.

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The system of taxation, as described by Mr. R. S. Wright, is as follows:—"Each parish is *prima facie* a separate contributory place chargeable with its own special expenses (*e.g.* water-supply or other local work). General expenses (*e.g.* salary of sanitary officers) are defrayed out of a common fund payable out of the poor rates in proportion to the parish valuation-lists. Special expenses are payable by the parish for which they are incurred, and are also payable out of a special rate, which is a poor rate, but is levied in the particular parish on the same basis as that of the general district rate of an

urban district (*i.e.* agricultural land, railways, etc., pay on only one-fourth of their net rateable value)." The Local Government Board may, however, consolidate parishes for the purpose of special expenses (*e.g.* a joint water-supply).

III. *The Port Sanitary Authority.*

Besides the ordinary urban and rural authorities, there are forty-one port sanitary authorities. The Port Sanitary Authority has jurisdiction over all waters within the limits of the port and such portions of the surrounding land as are specified by the provisional order which creates the port authority.

The Local Government Board, by provisional order, may constitute any local sanitary authority whose district forms part of or abuts on any port, or any conservators or commissioners having jurisdiction over such port, the sanitary authority for the port.

Where there are two or more riparian authorities having jurisdiction within any port the Local Government Board may, if it thinks fit, combine them by provisional order, and constitute them the sanitary authority. In such case the provisional order must either prescribe the mode of their joint action or must provide for the formation of a joint board.

The constituting order may assign to the port sanitary authority all or any of the rights, Powers, and duties possessed by local authorities under the Public Health Act, 1875. It must further direct the mode in which the expenses of the port authority are to be paid.

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CHAPTER VIII.

THE SCHOOL DISTRICT.

National Education—Elementary Schools—School Districts—School Boards—School-Attendance Committees.

For purposes of elementary education England and Wales are parcelled out into School Districts. This division of the land dates from Mr. Forster's Elementary Education Act of 1870, which may be regarded as the charter of national education. That Act has been several times amended by subsequent statutes, but only for the purpose of supplementing and working out the details of the original scheme. Prior to 1870 primary education was recognised as an object of public utility. Building grants and annual grants out of public money were made in favour of voluntary schools which reached a certain standard of efficiency. But Mr. Forster's Act first recognised and gave effect to the principle that it is the duty of the State to see that every citizen receives the primary elements of an education. The execution of this public duty is entrusted to local authorities under the superintendence of the Education Department of the Privy Council. When the Act of 1870 came into operation the chief element of controversy

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was the question of religious teaching in rate-supported schools. Controversy now turns chiefly on the standard of education that is to be considered elementary. With these questions the present volume is in no wise concerned. We have only to consider the machinery by which the Education Acts are worked, and not the nature of the products which that machinery turns out. In order that the Acts may be efficiently carried out, statutory duties are imposed on three classes of persons, —namely, parents, the Education Department, and local authorities.

First, It is declared to be the duty of the parent of every child to cause such child to receive efficient elementary instruction in reading, writing, and arithmetic. The term "parent" is defined so as to include every person standing towards a child *in loco parentis*, and has been held to apply to a maiden aunt.

Secondly, The Acts make it the duty of the Education Department to see that in every school district there shall be an adequate supply of public school accommodation to meet the wants of the inhabitants. In order that the necessary information may be obtained, the various local authorities are required to furnish returns to the Education Department, and there is also power for the Department to hold independent inquiries.

Thirdly, If in the opinion of the Education Department there is not a sufficient supply of public-school accommodation in any school district, it is the duty of the local authority to supply it.

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scholar do not exceed ninepence a week.[1] A public elementary school is an elementary school which is open to inspection by Her Majesty's Inspectors of Schools, which is worked under the conscience clause, and which conforms in other respects to the requirements of the Education Department.

The machinery by which these various duties are enforced is as follows:[2]—The country is mapped out into school districts, and a school authority is provided for each district.

The whole of the Metropolis constitutes one school district, and the local board district of Oxford constitutes the school district for that city. The borough of Wenlock is treated as a parish; but with these exceptions, the rest of England and Wales is mapped out into school districts on the following plan:—Every borough under the Municipal Corporation Acts constitutes a school district. Every parish not included in a borough also constitutes a school district. Where a parish is partly within and partly without a borough, the part outside is treated as a separate parish, and constitutes a school district. The Education Department has power to unite school districts, and then the united district thus formed is treated as an ordinary school district.

The local education authority in a school district may be either a School Board or a School-Attendance Committee. Every school district must be under either one or the other.

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A school board may be created in two ways—namely (1) by the action of the Education Department; and (2) by the voluntary action of the ratepayers of the district.

If the Education Department, after inquiry, find that there is not sufficient public school accommodation, they must notify the local authorities of the fact, and require them to supply it. If, after the expiration of six months, the local authorities have neglected to provide the required accommodation, the Education Department must cause a school board to be created for the district.

A school board may in any case be created on the application of the persons locally interested. In the case of a borough the application must be made by the town council; in any other case the application must be made by the persons on whom it would devolve to elect the school board. The opinion of the electors must be taken in a meeting duly convened for the purpose. The meeting is called by the clerk to the guardians on the application of fifty ratepayers. If the resolution be negatived, it cannot be proposed again for a year.

The Education Department have power, under certain conditions and circumstances, to dissolve a school board.

At a school-board election every ratepayer is entitled to vote. He has as many votes as there are members to be elected, and he may distribute his votes as he pleases,—that is to say, if he likes he may give the whole of his votes to one candidate.

The mode of conducting elections is under the control of the Education Department. By the regulations of that Department the nominations of candidates are to be in writing, and when there is a contest the poll is to

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be taken according to the provisions of the Ballot Act, 1872, applicable to a municipal election. The returning-officer in a borough is the mayor, or, if it be divided into wards, one of the aldermen of the ward. In rural districts the clerk to the guardians is the returning-officer.

When first a school board is elected, the number of members is fixed by the Education Department, but afterwards it may be such as the school board, with the approval of the Education Department, may determine. No qualification has been fixed for membership of a school board. The members of a school board hold office for three years, and then all retire together. Retiring members are eligible for re-election. In the case of any dispute as to the election of a member, the Education Department may determine the question. If a casual vacancy occurs, the remaining members of the board may elect a person to fill up the vacancy. The school board is a body corporate, with a common seal, perpetual succession, and the power to hold lands in mortmain. The members of the board elect their own chairman, and minutes of their proceedings signed by him are evidence.

A school board may appoint a clerk, a treasurer, and teachers. These officers hold office during the pleasure of the board, and receive such salaries as the board may assign to them.

The board may make bye-laws for the purpose of enforcing the attendance of children at school, and may appoint an officer to aid in carrying the bye-laws into effect. Another mode of compelling attendance is by school-attendance orders, made by the justices on the

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The school board may, with the consent of the Education Department, provide an office for themselves; and it is their duty to provide such school accommodation as the Department may require them to provide. If the school board make default, the Education Department may, after due notice, appoint a committee to act in their place, until the requirements of the Department have been complied with. The expenses of the school board are defrayed out of the school fund.

All monies received by the school board go into the school fund. The sources from which that fund is supplied are—(1) Fees paid by children; (2) Parliamentary grants in aid of building or permanent improvements; (3) Loans; and (4) The school rate.

For purposes of building or enlarging schools extensive borrowing powers have been conferred on school boards. They must, however, obtain the sanction of the Education Department, unless they borrow money for the purpose of an industrial school. In that case the sanction of the Home Secretary is requisite. The repayment of loans may be spread over a period of fifty years. According to the returns of 1882, the amount of the outstanding loans effected by school boards was very nearly £11,000,000. Rather more than £1,000,000 was borrowed by them during the year.

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The difference between fees and expenditure is made up by a rate. The school board deliver to the rating authority a precept for the amount required. In boroughs the rate is levied as part of the borough rate, and in parishes outside boroughs as part of the poor rate. In the year 1881 the amount raised by rates was £1,500,000, while the amount derived from fees was £370,000. More than three-fourths of the expenses were therefore contributed by the rates.

School-board accounts are required to be made out in such form as the Local Government Board may direct. They must be made up and balanced half yearly or yearly, as may be directed, and the chairman must sign the balance-sheet. They are then audited by the Poor Law Auditor, who is an official of the Local Government Board. An appeal lies from his decision to that Board. After the audit the balance-sheet must be sent to the Education Department and the rating authorities. Any ratepayer is entitled to a copy on paying a fee of sixpence. There are now 2051 school boards.

In places where there is no school board the school authority is the School-Attendance Committee. That committee consists in effect of a sub-committee of some previously existing local authority. The school attendance committees are appointed annually, and must consist of not less than six nor more than twelve members. In the case of a borough the council must appoint the school-attendance committee out of the members of the council. In the case of an urban sanitary district, with a population of not less than five thousand, the sanitary

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If a school-attendance committee make default in the performance of its duties, the Education Department may appoint persons for a specified period, not exceeding two years, to perform the duty of the committee. The persons so appointed may be remunerated, and the expense incurred may be recovered from the town council or guardians, as the case may be.

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THE HIGHWAY AREAS—BURIAL AREAS, ETC.

Highway Areas—Highways and Main Roads—Highway Parishes—Highway Districts and Boards—Urban Highways—Sanitary District Cemeteries—Burial Boards Cemeteries—Miscellaneous Areas.

I. *Highway Areas.*

A HIGHWAY, as defined by Blackstone, is a public road which all subjects of the realm are entitled to use. The main Highway Areas are three in number—(1) the highway parish; (2) the highway district; and (3) the urban sanitary district. The first two are rural authorities. This classification is not exhaustive, because the six counties of South Wales have a special highway organisation of their own under Acts of 1844 and 1860. The Isle of Wight has its special constitution; and the Metropolis, of course, is excluded from the operation of the general Acts. There are, too, other places and towns which have special Acts, varying or adding to the general highway powers.

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pike Acts which began to be passed in the last century, but which of late years have been discontinued. It is clearly right that the arterial roads through which the main traffic of the country flows should be put on a different footing from the roads which only serve certain small areas. Under the Turnpike Acts the control of the roads to which they applied was vested in trustees, who were empowered to defray their expenses by collecting tolls. In theory nothing could be fairer than the system of paying road expenses by taxing those who use the roads in exact proportion to the use they make of them. In practice the system is both annoying and costly. Mr. Dodson has described it as "the most extravagant mode of maintaining roads which the ingenuity of man or fiend could devise."[1] The turnpike trusts are now expiring fast, and no one has a good word for the moribunds. In 1864 there were 1048 trusts, comprising 20,000 miles of road. In 1882 there were only 105 trusts, comprising 3000 miles of road. In 1893 the last toll will have been collected. Until 1878, when a road was disturnpiked, it became an ordinary highway; but by the Act of that year it was provided that all roads disturnpiked after 1870 should be deemed to be main roads. In the case of main roads, one half of the expenses is to be repaid by the county to the highway authority if the road is repaired and maintained to the satisfaction of the county surveyor. The Act further provides that the county authority—that is to say, the justices in quarter sessions—may declare any highway to be a main road, or, on the other hand, may apply to the Local Government Board for a provisional order declaring

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he may appoint a deputy. By leave of the vestry the surveyor may appoint a collector. It is the duty of the surveyor to see that the roads are properly maintained, and with the sanction of the vestry he may enter into contracts for their repair. It is also his duty to assess and levy the necessary highway rate. If the vestry makes default in appointing a surveyor, the justices must appoint some person to the office. In parishes where the population exceeds 5000, the vestry may appoint a board to discharge their functions in respect of highways. This board is in effect a committee of the vestry. There are now, it seems, nine such boards.

2. Under Acts of 1862 and 1864, power was given to the quarter sessions to combine parishes into highway districts. In the exercise of these powers 366 highway districts, comprising about 8000 highway parishes, have been created.[1] The organisation provided by these Acts consists of a district highway board, composed of the justices resident in the district, and of way wardens elected by the several combined parishes. The board must appoint a treasurer, a clerk, and a district surveyor, and it may appoint an assistant surveyor. The functions of the board correspond with those of the vestry and surveyor in a highway parish. The expenses are borne partly by a common fund, partly by the different parishes. "The common fund," says Mr. R. S. Wright, "is formed by contributions in proportion to the poor-law valuations of the several parishes. The amount of the contribution so due from a parish and that of its separate charges for its own roads are levied by a precept. If the parish is

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not a poor-law parish, the precept goes to the way wardens, and the amount is raised by them by a separate highway rate. In other cases the precept goes to the overseers, and they pay out of the poor rate."

By the Highways Act, 1878, it is enacted that where the area of a highway district coincides with the area of a rural sanitary district, the rural sanitary authority—that is to say, the guardians—may apply to the county authority to have the control of the highways transferred to them. If the justices make the order, the guardians thereupon supersede the district board and become the highway authority. It is not known in how many cases this provision has taken effect.

To sum up—In rural districts the highway area may be either a highway parish or a highway district; and the highway authority may be a parish surveyor, a parish board, a district board, or the guardians. All rural highway accounts are now audited by the Local Government Board. The total expenditure for the year 1881 was £1,854,000.[1]

3. In urban sanitary districts the urban sanitary authority is also the highway authority. The urban authority, as we have seen, may be a town council, or a local board, or improvement commissioners. Their powers over streets and roads have already been referred to.

II. *The Burial District.*

The laws relating to the provision of burial grounds are at present exceedingly complicated. The common-law right of burial in the parish churchyard has been

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already adverted to. As population has increased, parish churchyards have become insufficient to meet the requirements of the parish. In towns, moreover, churchyards are frequently ordered to be closed for sanitary reasons. When the parish churchyard is no longer accessible, provision is made for the burial of the dead in three ways :—

First, there are cemeteries made and maintained as commercial undertakings under special Acts of Parliament. These undertakings were sufficiently numerous, even in 1847, to make it expedient to pass the Cemeteries Clauses Act, which contains a series of model clauses for adoption into the special Acts.

Secondly, by an Act of 1879, the provisions of the Cemeteries Clauses Act, 1847, are incorporated into the Public Health Act. The effect of this is, that any sanitary authority may now make and maintain a cemetery for its own district,[1] and exercise all the powers given by the Act of 1847. A cemetery may therefore now be provided for a borough, an Improvement Act district, a local board district, or the extra-urban parts of a union.

Thirdly, burial grounds may be provided under a series of eleven Acts, extending from 1852 to 1875, commonly known as the "Burial Acts." Any parish or township may adopt the provisions of these Acts, and as a fact 552 burial boards have been constituted under them. The burial board is elected by the vestry. It must consist of from three to nine ratepayers of the parish. The members hold office for three years, one-third retiring annually. As vacancies occur, the board

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may fill them up, if the vestry do not. The board, with the consent of the Home Secretary, may mortgage the rates in order to pay for a burial ground. The management of the burial ground and the fixing of fees for interments is entrusted to the board, subject to regulations made by the Home Secretary. Parishes may concur in providing a common burial ground; and a burial board, instead of providing a cemetery, may contract for accommodation in the cemetery of some other authority. There are some rather complicated provisions under which a town council or other urban sanitary authority may acquire the powers of a burial board within its own area. The Select Committee on Poor-Law Guardians, 1878, were "clearly of opinion that in urban districts the separate existence of burial boards ought at once to cease, and that whenever any new duties are imposed by the legislature on such districts they should be carried out by the existing authorities."

There are other local authorities besides those which have been described within whose jurisdiction the English citizen may occasionally find himself. He may be the inhabitant of a drainage-board district or a Land Drainage Act district; but it would merely confuse the reader, without answering any practical purpose, to go into these special authorities and occasional jurisdictions.

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CHAPTER X.

THE METROPOLIS.

Areas and Rating—Police—Licensing—Poor-Law Administration—The Metropolitan Asylums Board—The Metropolitan Board of Works—The Vestries and District Boards—The City Corporation.

THIS volume would be incomplete without some reference to the Metropolis, but it would be impossible within the limits of space assigned to me to describe its system of government.[1] The Metropolis has no defined area, or rather its area differs for different purposes. The metropolitan police district differs from the metropolitan management district or postal district. What is generally understood by the Metropolis is the area under the jurisdiction of the Metropolitan Board of Works. The confusion which reigns supreme over local affairs in the rest of England is only worse confounded in the case of the Metropolis. The only part of the Metropolis which has a definitely-organised system of government is the City of London. The City has an area of some 700 acres and a "sleeping population" of about 50,000 persons.

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The greater London of the Registrar-General sprawls over some 120 square miles of ground, extends into four counties, and has a population of 3,814,371 persons. The constitution of the City of London is regulated by 120 charters, some 50 general Acts, and an unknown quantity of special Acts. London outside the City is regulated by about 120 general Acts, supplemented by an unknown quantity of special Acts. The fact that the Metropolis is so well governed as it is speaks well for the practical sagacity and honesty of purpose of those that rule the monster city. There are not infrequent hitches in the cumbrous machinery, but the marvel is that it moves at all. The amount collected by rates is about £5,500,000. The revenues of the City Corporation, including tolls and dues, come to about £1,500,000 more. There are nine different kinds of rates collected. The number of distinct rating authorities does not appear in any official return. Besides the City Corporation, the Metropolitan Board of Works, and the London School Board, there are twenty-eight boards of guardians and forty-three incorporated vestries and district boards. It is often said that there is no system in metropolitan government, and that legislation respecting it has proceeded on no settled principle. It may be doubted whether either of these statements is accurate. The theory of London government appears to be this :—There is in the centre a compact town of small dimensions, namely, the City ; around the City walls there is a fringe of country villages, which for the most part can be governed like other country parishes. Unfortunately the facts do not square with the theory. Hitherto so much the worse for the facts. When the facts have be-

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come obstreperous, some exceptional expedient has been resorted to—some special authority has been created to meet the need of the hour. The plan of putting a new legislative patch on to the old garment has been consistently pursued with the usual result. To give a methodical account of London government would be as difficult as to describe the pattern on a patchwork quilt. All that can be done is to give some description of the local authorities which constitute the more important patches. Before saying anything about the local authorities, it may be well to mention some exceptions to their jurisdiction. National buildings and most of the public parks are under the Office of Works, a State department consisting of a permanent staff and a parliamentary Chief Commissioner, who is appointed by the Government of the day, and goes out with his party. The Metropolitan Police Force, which consists of about 10,000 men, is under the direct control of the Home Secretary and is quite distinct from the City Police. The cost of the Metropolitan Police for 1881 was £1,148,000, while the cost of the City Police was about £100,000. The theatres in certain parts of London are licensed by, and are under the control of, the Lord Chamberlain. In the rest of the Metropolis, except the City, they are under the control of the various county justices. Music and dancing licenses and public-house licenses are in the hands of the county justices or city magistrates, as the case may be. The supply of gas and water for the most part is in the hands of private companies with special statutory powers.

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The construction and management of asylums for the imbecile or insane, and hospitals for infectious cases, are taken out of the hands of the ordinary guardians and vested in the Metropolitan Asylums Board. The Board is a body corporate. The members of the Board are in part elected by the guardians of the several unions, in part nominated by the Local Government Board. The number of members is fixed by the Local Government Board. The present number is sixty, of whom fifteen are nominated and forty-five are elective members. The nominated members must never exceed one-third of the elective members. The elective members are chosen by the guardians either from among themselves or from the ratepayers of the union. The nominated members must be either justices of the peace or ratepayers resi-

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dent in the Asylums Board district. Five hospitals for infectious diseases have been founded by the Board. Their experiences during the recent smallpox epidemics have not been happy. The effect of massing large numbers of smallpox cases together had never before been tried. The undoubted result was the spread of the disease in the immediate vicinity of the hospitals. The subject has been investigated by a Royal Commission and the Local Government Board. The result of their inquiries is to show that under proper management there is no danger to the neighbourhood from hospitals for the ordinary infectious fevers; but that the aggregation of smallpox cases is unsafe, and that for the future some other plan must be tried. By a curious anomaly the provision of hospitals for infectious disease is considered a poor-law, and not a sanitary, matter, and the whole management of these institutions is conducted without any reference to the sanitary authorities.

There is one school board for the whole Metropolis. The Board consists of fifty members, elected by the different districts into which for this purpose the metropolitan area is divided. The chairman is elected by the Board, and receives a salary. The members are elected by the different districts in the following proportions:—namely, Marylebone, 7; Finsbury, 6; Tower Hamlets, 5; Hackney, 5; Southwark, 5; The City, 4; Greenwich, 4; Westminster, 5; Chelsea, 4.[1]

The main drainage of London, and, with certain limitations in the case of the City, the regulation of streets and bridges, and the control of the fire brigade and the making of town improvements, are under the control of

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the Metropolitan Board of Works. This Board was created in 1855 by the first of the Metropolitan Managements Acts.[1] The Board is a corporate body consisting of forty-six members. The chairman receives a salary of £2000 a year. The rest of the members are unpaid. The City elects three members; the rest are elected by the various vestries and district boards in the metropolitan area. The members of the Board hold office for three years, one-third of the members retiring every year by rotation. Retiring members are eligible for re-election.

The seventy-eight parishes in the metropolitan area outside the city boundary are governed by either vestries or district boards. There are twenty-three vestries ruling large single parishes, and fifteen district boards governing associated groups of parishes. The vestries and district boards are the sanitary and nuisance-removal authorities for their respective areas. They also superintend the lighting, paving, watering, and cleansing of the streets. Minor drainage works, supplemental to the main system, are also in their hands.

The London vestries are incorporated. The members must have a rating qualification of not less than £40 a year. They hold office for three years, one-third retiring annually. The elections are held in May. The number of vestrymen varies according to the population of the parish, but the maximum is 120. The candidates are proposed and seconded. If there be more candidates than vacancies the election takes place by ballot. The rector of the parish and the churchwardens are *ex officio* vestrymen. The accounts of the vestries are audited by elected auditors.[2]

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The members of the district boards are elected by the vestries of the combined parishes. The constitution of the district boards is in most respects similar to that of the vestries for single parishes.

The City of London has an area of about one square mile. Within its limits the Corporation is for nearly all purposes, except main drainage, the Local Authority. No one can deny the efficiency of the government within these narrow limits. The City has its own police system and its own courts. It is the sanitary authority for the port of London. It has the monopoly of all markets within seven miles of its boundary. It also has the right of collecting certain duties on all corn, coal, and wine brought into the port of London or the metropolitan area.

The Corporation exercises its functions through three assemblies—namely, the Court of Aldermen, the Court of Common Council, and the Court of Common Hall. The Lord Mayor is president of each of these assemblies.

The Court of Aldermen consists of twenty-six aldermen, including the Lord Mayor. The City is divided into twenty-six wards. There are twenty-four wards which each elect an alderman; two more wards elect an alderman between them; the remaining alderman sits for a twenty-seventh nominal ward, and the vacancy is usually bestowed on the senior alderman.[1] The aldermen hold office for life, are *ex officio* magistrates, and when sitting alone have the powers of ordinary justices sitting in petty sessions. The Court of Aldermen elects the Recorder, and licenses brokers, and has considerable financial control.

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and 240 common-council men elected annually in different proportions by the several wards. The electors at the ward-mote elections need not be citizens, but must have a certain property qualification in the City. The Court of Common Council acts chiefly through committees, the most important of which is the Commission of Sewers, who superintend the paving, lighting, and street management of the city. Most of the corporate officers are elected by the Common Council. The Commissioners of 1837 point out that "an unlimited command over the funds of the City is held by two independent bodies, the Court of Aldermen and the Court of Common Council." It does not seem, however, that much practical inconvenience arises from this anomaly.

The business of the Court of Common Hall is believed to be confined to the election of certain officers, the most important of which are the Lord Mayor, the Sheriffs, and the Chamberlain.

The right of citizenship is confined to members of the sixty-nine livery companies. Any livery man may take up his freedom and be enrolled as a citizen.

The Lord Mayor is chosen from among the aldermen who have served the office of sheriff. The Court of Common Hall names two aldermen—usually the two senior aldermen—qualified and willing to serve, and of the two thus named the Court of Aldermen selects one, usually the senior one. The Lord Mayor is the chief magistrate of the City, and is expected to take the lead in all City functions and other matters of public interest. During his year of office he lives at the Mansion House, and there dispenses hospitality on behalf of the city. His salary for the year is £10,000.

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Nothing need be said about the functions performed by the Sheriffs and Auditors. The names of the offices sufficiently denote their duties. The Chamberlain is the treasurer of the Corporation. The Recorder, who is elected by the Court of Aldermen, is a judge of the Central Criminal Court, and chief judge of the Mayor's Court, which has an unlimited civil jurisdiction within the City limits. The Deputy-Recorder is called the Common Sergeant. He is elected by the Court of Common Council. So also is the judge of the City of London Court,—a court which has the jurisdiction of an ordinary county court. The principle of elective judges is a bad one; but the elections made have, as a rule, done great credit to the electors. There have, however, been exceptions.

Among the other more important officers elected by the Court of Common Council are the Town-Clerk, the Remembrancer, and the City Coroner.

The City Corporation is subject to no external control or audit, and, except in the matters where the Metropolitan Board of Works has jurisdiction, it enjoys complete independence.

Most of the more important local authorities exercising jurisdiction in the Metropolis have now been adverted to; but there are many minor authorities which ought to be described in order to give anything like a complete account of London government.[1] That, however, is outside the scope of a volume in this series.

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CHAPTER XI.

CENTRAL CONTROL.

Central Control—The Local Government Board—Its Functions—Advice—Administrative Control—Audit—Limits of Central Control.

THE supervision of the Central Government over local authorities is mainly exercised through a new department called the Local Government Board. School boards and school-attendance committees, as regards all matters relating to education, are under the control of the Education Department of the Privy Council, while financially they are mainly under the Local Government Board. In matters relating to the contagious diseases of animals, the Privy Council is the central controlling department; and as regards loans for certain local purposes, the sanction of the Treasury is required. Licenses to local authorities under the Electric Lighting Act are under the control of the Board of Trade. But the general superintendence of local affairs is now gathered together in the hands of the Local Government Board.

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Before 1871 it was otherwise. The exercise of central supervision was scattered over various departments, having no organised communication with each

other. The natural result was confusion and uncertainty of action. The evil and its remedy are thus stated by the Royal Sanitary Commission of 1869. "However local," they say in their Report, "the administration of affairs, a central authority will nevertheless be always necessary in order to keep the local executive everywhere in action—to aid it when higher skill or information is needed, and to carry out numerous functions of central superintendence. The causes of the present inefficiency of the central sanitary authority are obvious.

"(1.) Its want of concentration—the reference of general questions of local government being made to the Local Government Act Department of the Home Office; that of measures 'for diseases prevention' to the Privy Council; and that of other matters to the Board of Trade.

"(2.) The want of central officers, there being, for instance, no staff whatever for constant, and a very small one for occasional, inspection.

"(3.) The want of constant and official communication between central and local officers throughout the kingdom. A new statute therefore should constitute and give adequate strength to one central authority. There should be one recognised and sufficiently powerful minister, not to centralise administration, but, on the contrary, to set local life in motion—a real motive power, and an authority to be referred to for guidance and assistance by all the sanitary authorities for local government throughout the country. Great is the *vis inertiæ* to be overcome; the repugnance to self-taxation; the practical distrust of science; and the number of persons interested in offending against sanitary laws, even amongst

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those who must constitute chiefly the local authorities to enforce them."

These recommendations were carried into effect by the Act of 1871.[1] The Act recites that "it is expedient to concentrate in one department of the Government the supervision of the laws relating to public health, the relief of the poor, and local government." It then proceeds to constitute a Local Government Board, to consist of "a President to be appointed by her Majesty, and to hold office during the pleasure of her Majesty," and of the following *ex officio* members—that is to say, the Lord President of the Council, all the Secretaries of State, the Lord Privy Seal, and the Chancellor of the Exchequer. The *ex officio* members are unpaid. The President is salaried. Provision is made that the President and one of the secretaries to the Board may sit in Parliament, and as a fact the President has always been a Cabinet Minister. The whole Board, it is believed, hardly or never meet. Questions of national importance of course come before the Cabinet. The President and the Department do all the work. The Act seems to contemplate this, for it provides that the Local Government Board may adopt an official seal and style, and that any act to be done or instrument to be executed may be done or executed in the name of the Board by the President or by a Secretary or Assistant-secretary, authorised so to do by any general order of the Board.

The Act vested in the new Board—(1) All the powers

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The Board reports annually to Parliament, and also furnishes exhaustive returns of local taxation, expenditure, loans, and debts.

The functions of the Board may be considered under three heads—namely, advice, administrative control, and financial control. In order to perform these functions, the Board, in addition to the ordinary staff of a Government office, has attached to it a staff of medical men, architects, and engineers, to conduct local investigations of a scientific or technical nature. Its public health and medical department is under the guidance of a distinguished member of the Royal Society.[1]

In order that the Board may be able to offer efficient advice to the various local authorities who may consult it, it is essential that it should have the fullest information. It consequently has conferred on it large powers of demanding reports and returns of every sort and kind from local sources. Every year an immense stream of statistics is poured in to its various departments. Sir Charles Dilke, in reviewing its functions in a speech to his constituents, estimated the amount of statistical returns at its disposal at ten millions. It is the duty of the Board

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The administrative control exercised by the Board over different local authorities varies considerably, as we have already seen. In poor-law matters the control is complete. The Board has power to create, dissolve, and amalgamate unions, and to regulate the proceedings of the guardians in the minutest particulars. Over municipalities proper the Board has no direct control. It is only when the borough wants to borrow money that the Board can step in and impose conditions. Over sanitary authorities the Board has considerable power, as we have seen, and it can force them to carry out sanitary measures to its satisfaction. It can by provisional order alter, amend, or repeal local Acts relating to sanitary authorities. These provisional orders, it is true, require confirmation by Parliament, but that is usually obtained as a matter of course. It can also authorise sanitary authorities by provisional order to acquire any necessary land by com-

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pulsory purchase. It can in like manner dissolve or alter the boundaries of local-board districts. It supervises and can alter or amend the bye-laws passed by sanitary authorities under the Public Health Act, 1875. As instances of bye-laws disallowed by the board, the following may be cited—namely, a bye-law prohibiting all boys from throwing stones in the town, a bye-law prohibiting persons from singing hymns in the streets, a bye-law forbidding strangers to bring dogs into the town, and a bye-law forbidding "lounging" on Sunday afternoon. The working of the Canal Boats Acts, the Rivers Pollution Prevention Acts, and the Alkali Acts, are under the special superintendence of the Local Government Board. It can confer on rural sanitary authorities all or any of the powers of urban sanitary authorities. The Board also has special and stringent powers for dealing with epidemics. In such case it may provide for the speedy interment of the dead, house-to-house visitation, and other requisite arrangements. Nearly all loans for local public works (except piers and harbours) have to be sanctioned by the Board, unless they are authorised by special Act of Parliament. In the Report for 1882 the Board say:[1] "Among the purposes for which we have sanctioned loans during the year have been included the construction, widening, paving, flagging, and channelling of streets; the erection of offices, public baths and wash-houses, bridges, gasworks, markets, hospitals, sea-defences; the provision of pleasure-grounds, cemeteries,

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The financial control exercised by the Board over local bodies is enforced in two ways. In the first place, as we have seen, when a local authority wishes to borrow under the powers given by the Public Health Act, 1875, and some other Acts, it must first obtain the sanction of the Board. The control in this direction is by no means complete, for it appears from the Board's last Report that since 1871 local bodies have obtained numerous special Acts, under which they have borrowed no less than £33,000,000. Under these Acts the sanction of the Board has not been requisite. The Board, however, have authorised loans to the extent of £24,000,000.

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Secondly, the Board is charged with the duty of auditing the accounts of most local authorities. Municipal boroughs and counties are exempt from the central

audit, but it embraces the accounts of poor-law guardians, rural sanitary authorities, urban sanitary authorities other than town councils, overseers of the poor, school boards, highway boards, and surveyors of highway parishes. For purposes of audit the country, exclusive of the Metropolis, is mapped out into thirty-three districts. The Board appoints officers called District Auditors, who under its directions conduct the audits on the spot. An appeal lies from the decision of the district auditor to the Board in respect of any disallowance or surcharge. As a rule, if the defaulting authority has made a *bonâ fide* mistake, the Board lets it off with a caution; but there is power to charge the defaulting authorities with any sums mis-spent, and occasionally in the interests of public justice this power is exercised by the Board. In 1880 the number of disallowances and surcharges reported by the district auditors was 6825. Poor-law accounts have for a long time been audited by the Central Government; but the extension of the audit to other local bodies is of recent date. The utility and efficacy of an independent audit is pointed out in the Report of the Poor Law Commissioners in 1837, where it is observed "that the negative duty not to apply a tax for an unauthorised purpose is more peculiarly fit to be enforced by an audit and account. When reinforced by an efficient remedy for the recovery of balances, and when the responsible party is in solvent circumstances, it is the most simple, ready, and self-acting of all expedients for the security of public property; and no other known administrative inquisition, and no judicial proceeding, either of a remedial or penal character, can be compared with it." When in

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1879 highway accounts were first brought under the audit, some curious applications of the rates came to light. In one parish a sparrow-shooting club for the farmers had for five and twenty years been supported by the highway rate. In another parish the mole-catchers' bills were paid out of the same source, the explanation being given that "having no other available source from which to pay the above, we paid it from the surveyor's account."[1] In two or three cases lately rewards for killing foxes were found to have been paid out of the rates. Considering that in most parts of rural England vulpicide and infanticide are thought to be crimes of about equal magnitude, it seems rather a strong measure to apply rates to either purpose. Among other items of disallowed expenditure we find champagne and plovers' eggs, visits to the theatre, journeying expenses when no journey was taken, presentation portraits, "suitable demonstrations" on the chairman's wedding day, memorial keys, and the like.

Whether the jurisdiction of the Board over local authorities ought to be extended or curtailed is a matter on which opinion may well be divided, but the value of its functions in giving advice and instruction can hardly be disputed. "Power," says Mr. J. S. Mill, "may be localised, but knowledge to be most useful must be centralised. There must be somewhere a focus at which all its scattered rays are collected, that the broken and coloured lights which exist elsewhere may find there what is necessary to complete and purify them. The Central Authority ought to keep open a perpetual communication with the localities, informing itself by their

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experience, and them by its own, giving advice freely when asked, and volunteering it when it seems to be required."[1] At any rate, until our rural system of local government is better organised, the ratepayers will be grateful for the central audit; but the extent of the administrative control that the Central Government should exercise is a most difficult problem. Obedience to the general laws which the Legislature has laid down for the preservation of private and individual rights and the limitation of the power of local authorities, can be enforced by the courts of law; but how far ought local bodies to be allowed to mismanage their own affairs? If they are superintended by an intelligent and conscientious central department, armed with large executive powers, it is apt to err on the side of undue interference. When it sees things going wrong it steps in with a high hand to set them right. Yet it is only by a succession of tumbles that a child can learn to walk. A local authority in leading strings is not likely to learn aright the lesson of self-government. If local autonomy possesses the political value its admirers assert for it, it may be well worth while to make some temporary sacrifices to develop and strengthen it. In local matters "that which is best administered" may not be "best" in the long run. The tendency to regard all England as a suburb of London is certainly not a healthy one. Anything that can give vigour and colour to local life should be encouraged. In the case of local bodies, as in the case of individuals, it may be better and healthier to be too little governed than to be too much governed, even though the government be good. "Le difficile

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